

(This order is corrected as per speaking to minutes order dated 19th September 2024)
IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

ANTICIPATORY BAIL APPLICATION NO. 2391 OF 2024

Gorakh Zabu Pawar ... Applicant
Versus
The State of Maharashtra ... Respondent

Adv. Anima Mishra a/w Anuj Singh for the Applicant.
Mr. Bapu V. Holambe-Patil, APP for Respondent-State.
Mr. Satyajeet Amale, P.I., Nashik Taluka Police Station.

CORAM: MANISH PITALE, J.
DATE : 10th SEPTEMBER 2024

P.C. :

. Heard learned counsel for the applicant and learned APP for the respondent-State.

2. In the present case, the applicant is seeking protection as he apprehends arrest in connection with FIR No. 0161 of 2024 dated 18th July 2024 registered at Nasik Taluka Police Station, Dist. Nashik, for offences under the provisions of the Bharatiya Nyaya Sanhita, 2023 (BNS), the Essential Commodities Act, 1955, the Fertilizer (Inorganic, Organic or Mixed) (Control) Order, 1985 and the Environment Protection Act, 1986. Some of the offences provide for maximum punishment of imprisonment upto 7 years.

3. Co-accused Nos. 2 and 3 were arrested from a shop wherein certain fertilizer was being sold, which allegedly contained bio

stimulant HDPE. The said accused persons stated that the shop and the business of fertilizer concerned accused No.1 i.e. the brother of the applicant and allegedly the applicant also.

4. The learned counsel for the applicant submits that since the FIR wrongly shows the name of accused No.1 as both Ankush and Gorakh, there is some confusion in the matter. It is submitted that Gorakh Zabu Pawar is the name of the applicant and his brother is the named accused Ankush Pawar, wrongly stated as Ankush alias Gorakh Pawar. It is specifically contended that the applicant is an Engineer and having his own business, with no concern with the fertilizer business of the brother. It is submitted that the applicant is ready to cooperate with the investigation.

5. The learned APP has opposed the present application and he submits that the arrested co-accused persons, who were subsequently released on bail, have specifically named the applicant also being responsible for the fertilizer business. Reliance is also placed on certain Call Detail Records (CDRs).

6. This Court has perused the material on record. A specific assertion is made in the present application on behalf of the applicant, which reads as follows :

“A. The applicant is the brother of accused no. 1. The applicant is an engineer and owns a gas pipeline agency. Further, the applicant is neither the owner of the company M/s. Greentech nor is he connected with the said company in any way whatsoever. The present applicant is not involved in any type

of manufacturing process of fertilizer. The applicant has been implicated in the present offence solely because he is the brother of accused no. 1.”

7. The learned counsel for the applicant has emphasized upon the said aspect of the matter. As on today, it appears that the material against the applicant is the statement made by the arrested co-accused persons, who were subsequently released on bail and certain CDRs, which according to the Investigating Authority, show that the applicant was also in touch with the said co-accused Nos.2 and 3, who are said to be employees working in the fertilizer business.

8. Since the applicant has undertaken to cooperate with the investigation, for the present, this Court is inclined to grant interim relief, so that he joins investigation and the Investigating Officer is able to report to this Court, as to in what manner the applicant is cooperating with the investigation. It is a matter of record that the applicant has not been specifically named in the FIR.

9. There shall be interim order in the following terms :

- (a) Till the next date, in the event the applicant is arrested in connection with FIR No. 0161 of 2024 dated 18th July 2024 registered at Nasik Taluka Police Station, Dist. Nashik, he shall be released on bail on furnishing PR Bond of Rs.50,000/- and one or two sureties in the like amount.

- (b) The applicant shall remain present before the Investigating Officer on 12th and 13th September 2024 between 10:00 a.m. and 12:00 noon and thereafter, as and when called by the Investigating Officer. The applicant shall cooperate with the investigation.
 - (c) The applicant shall not tamper with the evidence of the prosecution in any manner. He shall not influence the informant, witnesses and other persons concerned with the case.
10. In the event, the applicant violates any of the aforesaid conditions, the order passed today would be recalled.
11. List this application for further consideration on 11th October 2024, to be included in the supplementary list.

MANISH PITALE, J.