

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION**

Anticipatory Bail Application No. 3087 of 2024

Mohd. Ahmed Shafique Khan
Age 29 years, Occ. Business,
R/at. R.H. No.01, Mayuresh,
Plot No.172, Badam Marg,
Near D Mart, Sector 21,
Nerul, Navi Mumbai - 400 706.

... Applicant

versus

The State of Maharashtra
Through the Senior Inspector of Police
Nhava Sheva, Navi Mumbai Police
Station.

... Respondent

Mr Sandeep R Waghmare, for the applicant.
Mr Amit A Palkar, APP, for the respondent/ State.

**Coram: R.N. Laddha, J.
Date: 18 November 2024**

P.C.:

By this application, the applicant seeks pre-arrest bail in connection with CR No.119 of 2024, registered at Nhava Sheva Police Station, Navi Mumbai, for offences punishable under Sections 3 and 7 of the Essential Commodities Act, 1955; Section 23(a) of the Petroleum Act, 1934; and Section

305(b) of the Bharatiya Nyaya Sanhita, 2023.

2. The prosecution alleges that the applicant and the co-accused stole 13,000 litres of petrol worth Rs.13,39,000/- from the pipeline of Indian Oil Tanking Limited at Nhava Sheva port using a tanker.

3. Mr Sandeep Waghmare, the learned Counsel appearing on behalf of the applicant, contends that the applicant is engaged in the business of fish farming. The applicant has neither been named in the FIR nor present at the spot. The learned Counsel submits that the co-accused, who committed the alleged crime, have been released on bail. The applicant has no criminal antecedents and has been falsely implicated in the present crime solely based on the co-accused's statement.

4. Mr Amit Palkar, the learned Additional Public Prosecutor representing the respondent/ State, opposing the request for pre-arrest bail, contends that the offence is severe, and the applicant and his father, who are currently absconding, are the masterminds behind the crime. He points out that at the applicant's instance, the co-accused rented the tanker in question from Girish Patil, tapped the pipeline and stole petrol. The learned APP submits that although the applicant was not present at the spot, he monitored the incident from a distance

and actively participated in the crime. The applicant has criminal antecedents. As the investigation is ongoing, the applicant's custody is warranted to ascertain the details of the persons involved in the crime.

5. This Court has given anxious consideration to the rival submissions canvassed across the Bar and perused the records. The allegations against the applicant centre around stealing 13,000 litres of petrol worth Rs.13,90,000/- by tapping a pipeline of Indian Oil Tanking Limited at Nhava Sheva port using a tanker. The applicant appears to have orchestrated the offence by renting a tanker from Girish Patil through his associates and tapping the pipeline to transfer the fuel into a tanker using a motor pump. This stolen fuel was then unauthorisedly sold at a concessional rate to the tanker's owner and others. Despite the applicant's absence from the scene, he seems to have monitored the theft from a distance. The material on record *prima facie* indicates that the applicant actively participated in and benefited from the crime. Stealing petroleum-based fuels has an adverse impact on a country's economy, contributing to rising fuel prices, a reduction in revenue from taxes, and illegal trade. The applicant seems to be the linchpin of the offence, and his custody would be necessary to uncover the illicit network of the unlawful fuel trade.

6. It is a settled position in law that granting anticipatory bail is an extraordinary power. While regular bail is generally considered the norm, the same principle does not apply to anticipatory bail. Considering each case's specific circumstances, the Court must exercise careful and prudent discretion when deciding whether to grant anticipatory bail. There is no one-size-fits-all approach. Caution is necessary, as granting protection in serious cases could potentially hinder investigation or lead to miscarriage of justice by allowing tampering with evidence. A profitable reference in this regard can be made to the decision of the Hon'ble Supreme Court in *Srikant Upadhyay v. State of Bihar*¹.

7. In the totality of the circumstances, this Court is not inclined to exercise its discretion in favour of the applicant. As a result, the application stands rejected.

(R.N. Laddha, J.)

¹ 2024 SCC OnLine SC 282.