IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

ANTICIPATORY BAIL APPLICATION NO. 3476 OF 2024

Sangram Vishwanath Pandhare ...Applicant

Versus

The State of Maharashtra ...Respondent

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- Mr. Kotali Ramji Tukaram, for Applicant.
- Mr. Bapu V. Holambe Patil, APP for Respondent.
- Mr. Satish Dinkar Somvanshi, H.C. Baudhan Police Station, present.

SHRIKANT SHRINIVAS MALANI

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CORAM : MANISH PITALE, J.

DATE : 20th DECEMBER, 2024.

P. C. :

1. Heard learned counsel for the applicant and the learned APP for respondent – State.

2. The applicant is apprehending arrest in connection with First Information Report No.1086 of 2024, dated 24th September, 2024, registered at Police Station Hinjwadi, District Pimpri – Chinchwad, for offences under Sections 287 and 288 of the Bharatiya Nyaya Sanhita, 2023 (BNS), Sections 3 and 7 of the Essential Commodities Act, 1955, and Section 5 of the Explosive Substances Act, 1908

3. The FIR in the present case is registered on the basis of a raid conducted pursuant to information received that in the shop of the applicant Liquefied Petroleum Gas i.e. LPG was being illegally transferred from one

cylinder to the other. The person apprehended at the shop, who was allegedly carrying out such illegal activity, revealed the name of the applicant as the owner of the shop. On this basis, the Investigating Authority is seeking to apprehend the applicant.

4. The learned counsel for the applicant submits that in the present case the offences under BNS are bailable, while the offences under the Essential Commodities Act, provide for punishment ranging from 6 months onwards to 7 years and that offence under Section 5 of the Explosive Substances Act, 1908 may not be *prima facie* attracted in the facts of the present case. It is submitted that in any case, the applicant is sought to be roped in on the statement of that co-accused person.

5. The learned APP, on the other hand, submitted that the FIR describes in graphic detail the manner in which LPG was illegally being transferred into cylinders and the person actually apprehended at the spot revealed the involvement of the applicant and even if the same is a statement of the co-accused person, in the facts of the present case, no indulgence may be shown to the applicant.

6. It cannot be denied that the offences under BNS in the present case are bailable. This Court has perused Section 5 of the Explosive Substances Act, 1908. It provides for punishment for making or possessing

explosives and the Section refers to "explosive substance" and "special category explosive substances." These expressions are defined in Section 2(a) and (b) of the said Act. A perusal of said definitions indicates a *prima facie* case in favour of the applicant that such provisions perhaps cannot be invoked in the facts and circumstances of the present case. Since punishment prescribed under Section 5 of the Explosive Substances Act, 1908, is imprisonment for a term which may extend to 10 years, the said offence can be said to be the major offence in the present case. As *prima facie* case is made out about non applicability of the same, this is a factor in favour of the applicant.

7. That leaves only the offences under the Essential Commodities Act, which provide for punishment for imprisonment from 6 months onwards. Since the name of the applicant has cropped up due to the statement of the co-accused person, this Court is inclined to grant relief, subject to appropriate conditions being imposed upon the applicant.

8. The application is allowed in the following terms:

(A) In the event the applicant is arrested in connection with FIR No.1086 of 2024, dated 24th September, 2024, registered at Police Station Hinjwadi, District Pimpri – Chinchwad, he shall be released on bail, on furnishing PR

Bond of ₹ 50,000/- with one or two sureties in the like amount, to the satisfaction of the Trial Court.

(B) The applicant shall remain present before the Investigating Officer on 23rd December, 2024, between 10:00 a.m. and 12:00 noon and thereafter as and when called by the Investigating Officer.

(C) The applicant shall cooperate with the investigation.

(D) The applicant shall not tamper with the evidence in any manner. He shall not influence the informant, witnesses or any other persons concerned with the case.

9. Needless to say, violation of any of the aforesaid conditions would make the applicant liable to face proceedings for cancellation of anticipatory bail.

10. It is also clarified that the observations made in this order are limited to the question of grant of anticipatory bail to the applicant in the present application and that the Trial Court shall proceed further, without being influenced by the observations made in this order.

11. The application is disposed of.

(MANISH PITALE, J.)