

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

ANTICIPATORY BAIL APPLICATION NO.217 OF 2024

Rahul Rajendra Mote	 Applicant
versus	
State of Maharashtra	 Respondent

**WITH
INTERIM APPLICATION NO.1362 OF 2024
IN
ANTICIPATORY BAIL APPLICATION NO.217 OF 2024**

Kondiba Tinnappa Kitture	 Applicant/ Intervenor
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IN THE MATTER OF :

Rahul Rajendra Mote	 Applicant
versus	
State of Maharashtra	 Respondent

**WITH
ANTICIPATORY BAIL APPLICATION NO.218 OF 2024**

Sambhaji Satyabhan Nikam	 Applicant
versus	
State of Maharashtra	 Respondent

**WITH
INTERIM APPLICATION NO.1361 OF 2024
IN
ANTICIPATORY BAIL APPLICATION NO.218 OF 2024**

Kondiba Tinnappa Kitture	 Applicant/ Intervenor
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IN THE MATTER OF :

Sambhaji Satyabhan Nikam	 Applicant
versus	
State of Maharashtra	 Respondent

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- Mr. Ghanasham Jadhav, Advocate for Applicants in both ABAs.
- Mr. Shrikant H. Yadav, APP for the State/Respondent.
- Mr. Ranjeet M. Pawar a/w Saurabh Desai, Advocate for Intervenor in both IAs.

CORAM : SARANG V. KOTWAL, J.

DATE : 05th SEPTEMBER, 2024

P.C. :

1. Today both these applications are decided by this common order because they arise from the same registered offence.
2. The Applicants are seeking anticipatory bail in connection with C.R.No.943/223, dated 08/11/2023, registered with Baramati Police Station, Pune Rural, under sections 406, 408 r/w 34 of the Indian Penal Code.
3. Heard Mr. Ghanasham Jadhav, learned counsel for the Applicants, Mr. Ranjeet M. Pawar, learned counsel for the Intervenor and Mr. Shrikant H. Yadav, learned APP for the State.
4. The FIR is lodged by Kondiba Kitture. He was working as Senior Manager (Admin) with Baramati Agro Ltd. Both these

Applicants were also working as Senior Managers with Protrans Suppliers Chain Management, Baramati (hereinafter referred to as 'Protrans'). In 2021, Protrans merged with Baramati Agro Ltd. In the year 2021 itself, few vehicles belonging to Protrans were transferred to Baramati Agro Ltd. At that time, both these Applicants were looking after the work of transferring those vehicles. The Applicants had told the management that the ownership documents of those vehicles were transferred. After that, the Baramati Agro Ltd. appointed Applicant Sambhaji Nikam as Senior Manager (Transport) and other Applicant Rahul Mote as Junior Officer (Transport). In September 2023, when Baramati Agro Ltd. Team inspected the vehicles, they realized that some parts of the Air Conditioning system of those vehicles were missing. When the Applicants were asked about it, they did not given satisfactory answers. The FIR mentions that around 28 compressors, 20 motors, 8 engines and 74 digital meters were missing. The value of those missing parts was around Rs.54,64,000/-. According to the FIR, since it was the duty of the Applicants to have control over those vehicles, they were responsible for the loss and therefore, the FIR was lodged.

5. Learned counsel for the Applicants submitted that they have not played any part in the alleged offence and they are merely made scapegoats because they were working with the earlier company. There is no definite material against the Applicants besides the suspicion expressed in the FIR. He submitted that considering the number of parts which were missing, it was not possible that those parts could have been stolen without the knowledge of others in the factory. He submitted that the Applicants have attended the police station and have cooperated with the investigation.

6. Learned counsel for the first informant submitted that the initial stand of the Applicants was that the parts were not missing and they were used in the refrigeration plant. That stand was incorrect. He submitted that since it was the duty of the Applicants to have control over those vehicles, they are the suspects and therefore without their interrogation, evidence cannot be collected.

7. Learned APP produced the investigation papers before me. He submitted that the Applicants have attended the police station and have cooperated with the investigation.

8. I have considered these submissions. The investigation papers included the statements of the other officers of the company mainly Vishal – Assistant Manager, Internal Auditor Sandip – Senior Supervisor (Transport), Sadashiv - Transport Manager and Suraj – Transport (Maintenance). Their allegations are similar to the FIR. In fact, the witness Pawar, Birajdar and Thorat were working in the Transport Department itself. The transfer of the vehicles was complete way back in the year 2021. The FIR mentions that it was realized that parts were missing in the year 2023. As rightly submitted by the learned counsel for the Applicants considering the large number of parts, it was not possible that they could have been taken away without the knowledge of the persons and workers present at the spot where the vehicles were kept and were used for transport. Some of the witnesses themselves are from the Transport Department.

9. Considering all these aspects, the allegations against the Applicants do no travel beyond suspicion. The investigation is going on for a long period. The FIR was lodged on 08/11/2023. For more than 10 months, there is hardly any material against the Applicants. They have already attended the concerned police station and have cooperated with the investigation as submitted by the learned APP. In this view of the matter, the Applicants can be protected u/s 438 of Cr.P.C. They will have to continue to cooperate with the investigation.

10. Hence, the following order :

ORDER

- (i) In the event of their arrest in connection with C.R.No.943/223, dated 08/11/2023, registered with Baramati Police Station, Pune Rural, the Applicants are directed to be released on bail on their furnishing PR bond in the sum of Rs.30,000/- (Rupees Thirty Thousand Only) each, with one or two sureties each, in the like amount.
- (ii) The Applicants shall attend the concerned Police

Station as and when called and shall cooperate with the investigation.

- (iii) The Anticipatory Bail Application along with the Interim Applications stand disposed of accordingly.

(SARANG V. KOTWAL, J.)