



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
NAGPUR BENCH : NAGPUR

CRIMINAL APPLICATION (ABA) NO.767 OF 2024

(Naveen Kumar s/o Jagdishprasad Tujlsyan Vs. State of Maharashtra)

AND

CRIMINAL APPLICATION (ABA) NO.769 OF 2024

(Wilson Sandeep s/o Gilbert Sequira Vs. State of Maharashtra)

Office Notes, Office Memoranda of
Coram, appearances, Court's Orders
or directions and Registrar's order

Court's or Judge's Order

Mr. S.N. Singh, counsel for the applicants.

Mr. S.V. Narale, A.P.P. for non-applicant/State. (ABA No. 767/2024)

Mr. N.B. Jawade, APP for non-applicant/State (ABA No.769/2024)

CORAM : URMILA JOSHI-PHALKE, J.

DATED : 06/12/2024.

1. Apprehending the arrest at the hands of police in connection with Crime No.1436/2023 registered with Police Station Wani, District Yavatmal for the offences punishable under Sections 3 and 7 of the Essential Commodities Act, 1955, and Section 420 read with Section 34 of the Indian Penal Code, 1860, the applicants approached this Court for grant of pre-arrest bail.

2. The crime is registered on the basis of a report lodged by the Taluka Supply Officer of Wani, District Yavatmal, namely Amol Bhaurao Kumre, on an allegation that he is working as a Supply Officer in Wani Tahsil and he has been authorized to file the complaint by written order by the Tahsildar Wani in a case of spurious diesel or diesel-like material on behalf of the State. On 18/12/2023, he received secret information, and therefore, the tanker bearing No. GJ/12/CT/0731 is

intercepted at Police Station Shirpur by suspecting that it contains diesel or a diesel-like substance. Therefore, the complainant along with the other raiding staff members went to the said spot, and in presence of the said Panchas, the driver of the tanker inspected the same. Upon instructions, it was found that the tanker has contained the spurious diesel or diesel-like substance to the tune of 30,000 liters, and upon inspection of the said papers with the driver, it was seen that the challan receipt was mentioning Industrial Oil transporting for industrial use, but on obtaining the samples and on receipt of the Chemical Analyzer reports, it reveals that it is not the Industrial Oil, but it is the diesel, and therefore, the crime is registered against the present applicants and other co-accused.

3. Heard learned counsel for the applicants, who submitted that the applicants were carrying the bio-diesel product of the Industrial Oil. As far as the contention of the State that it was a diesel, it is not correct, as the analysis report conducted by the Laxminarayan Innovation Technological University, Nagpur, shows that it is not clear that seized samples contain banned diesel/bio-diesel or any other petroleum products. There are no standards specifications available or published for Industrial Oil. Hence, it is also difficult to match the specification of the seized sample with the specification of the Industrial Oil. However, the specifications are compared with the standard specification of diesel.

4. He submitted that, from the said report, it is crystal clear that it is not the diesel, but admittedly, it was the Industrial Oil, and it was transported for the purpose of industrial use. Thus, no offence is made out against the present applicants. Now, the products are already seized, and custodial interrogation of the present applicants is not required.

5. Per contra, the learned APP in both the applications strongly opposed the said applications and submitted that during the investigation, it revealed that under the garb of Industrial Oil, the diesel, which fetches a price more than the Industrial Oil, is transported by the present applicants illegally to deceive the Government.

6. He submitted that diesel-like substances go around Rs. 29,77,79,009/-. The said material is obtained from Gujarat, where the diesel is sold at-least Rs. 20/- less than in Maharashtra, and the price of Industrial Oil is the same as that of diesel in the State of Gujarat. If the said substance would have been brought as diesel, the rate would have certainly changed, and the diesel is readily available in the State of Maharashtra at the rate of Rs. 92/- and odd. However, the substance which is imported from the State of Gujarat is imported at the rate of Rs. 70/-, which is at-least Rs. 20/- less. Since the substance which is transported under the name of Industrial Oil and the taxation in the State of Maharashtra does not attract, so it would be to the diesel.

7. He submitted that to avoid the liability to pay GST and other taxes, the diesel was allegedly transported under the garb of Industrial Oil. Thus, considering the huge amount involved and the huge liters of diesel is transported by the present applicants illegally, in view of that, the application deserves to be rejected.

8. After hearing both sides and on perusal of the investigation papers, it reveals that under the garb of Industrial Oil, the tanker was carried containing 30,000 liters of diesel.

9. After receipt of secret information, the Supply Officer has conducted the raid and is already authorized by the Government to take appropriate actions. The said diesel was brought from the State of Gujarat, as it fetched a lower price in Gujarat than in Maharashtra, and brought it to Maharashtra. The samples which are sent for the Chemical Analysis, and the Chemical Analysis report, show that it is not the Industrial Oil, but it is a diesel. The Chemical Analysis report, which is placed on record, shows that Exhibit No.1 is a sample of diesel. Thus, considering the recitals of the FIR and the various documents collected during the investigation and the panchanamas, it reveals that it was an attempt to transport the diesel under the garb of Industrial Oil to deceive the Government.

10. Thus, considering the prima-facie case is made out against the present applicants, the interim

protection granted to both the applicants deserves to be canceled. In view of that, I proceed to pass the following order.

The Criminal Application (ABA) No.767 of 2024 and Criminal Application (ABA) No.769 of 2024 are deserves to be **rejected**.

[URMILA JOSHI-PHALKE, J.]