



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

CRIMINAL APPLICATION (ABA) NO.697 OF 2023

Tikamdas Sundarlal Manglani and another

Vs.

State of Maharashtra, Through Police Station Officer, Police Station, Pulgaon,
District Wardha

Office Notes, Office Memoranda of Coram,
appearances, Court's orders of directions
and Registrar's orders

Court's or Judge's orders

Mr. Syed Ateeb, Advocate for applicants.
Mr. V. A. Thakare, APP for respondent/State.

CORAM : URMILA JOSHI-PHALKE, J.
DATED : 02/01/2024

1. By this application, the present applicants are seeking pre-arrest bail in connection with Crime No.647/2023, registered with Pulgaon Police Station, District Wardha for the offences punishable under Sections 188, 272, 273 and 328 of the Indian Penal Code along with Sections 26(1), 26(2) (iv), 27(3)(e), 30(2) (a), 3(1)(zz)(iv) and 59 of the Food Safety and Standards Act, 2006.

2. The accusations against the present applicants is that the crime is registered on the basis of report lodged by Prashant Shivraj Lohar, Food and Safety Officer, Wardha, on an allegation that he received a communication from the Local Crime Branch dated 04.08.2023, informing that the co-accused Prem Ahuja is dealing with the contraband articles like scented nuts, scented tobacco which is prohibited in the State of

Maharashtra. Accordingly, he conducted the raid and contraband articles worth of Rs.2,91,000/- was seized along with vehicle. During the interrogation with co-accused, the name of the present applicants are revealed and therefore, they are apprehending arrest at the hands of police.

3. Learned Counsel for the applicant Mr. Syed Ateeb appeared through video conferencing submitted that except the statement of the co-accused, no other material is with the investigating agency to connect the present applicants with the alleged offence. Nothing is recovered from them. As far as the custodial interrogation is concerned which is not required, as the entire stock is already recovered from the co-accused.

4. Said application is strongly opposed by the State on the ground that during investigation, the name of the present applicants are revealed as the supplier of the said contraband articles to the other co-accused. The custodial interrogation is required to ascertain regarding from which place he has obtained the said articles. There are criminal antecedents against the applicant No.2, as one crime is registered bearing No.759/2022 at Babhulgaon Police Station, District Yavatmal. As there are criminal antecedents against him, the application deserves to be rejected.

5. Having heard the learned Counsel for the applicants and learned APP for the State. Perused the investigation papers. Admittedly, present applicants were

not found along with the contraband articles. Their involvements are revealed on the basis of statement of the co-accused. The statement is only to the extent that he has obtained some stocks from the present applicants from their shop. Except that there is no other material to connect the present applicants with the alleged offence. As far as the reply filed by the State as one offence is registered against the present applicant No.2 of similar nature. After considering the entire material, except the statement of the co-accused, no other material is collected during the investigating agency to show connection between the present applicants and other co-accused. Merely because, one crime is registered against the present applicants, their liberty cannot be curtailed. The issue regarding the applicability of Section 328 of the Indian Penal Code is already pending before the Hon'ble Apex Court. Considering that nothing is recovered from the present applicants and the Investigating Officer has not collected the material to show that the other co-accused have obtained said contraband articles from the present applicants. At this stage, except the statement of the co-accused, nothing is on record, in view of that present applicants can be protected by granting protection by way of anticipatory bail. In view of that, I proceed to pass following order.

- (i) The Criminal Application is allowed.

(ii) In the event of their arrest, the applicant No.(1) **Tikamdas Sundarlal Manglani and No.(2) Vikram @ Vicky Sachhanand Manglani**, in connection with Crime No.647/2023, registered with Pulgaon Police Station, District Wardha for the offences punishable under Section 188, 272, 273 and 328 of the Indian Penal code along with Sections 26(1), 26(2) (iv), 27(3)(e), 30(2)(a), 3(1)(zz) (iv) and 59 of the Food Safety and Standard Act, 2006, are hereby released on anticipatory bail on executing PR bond in the sum of Rs.25,000/- each with one solvent surety in the like amount.

(iii) The applicants shall attend the concerned Police Station once in a week on Sunday between 10.00 a.m. to 1.00 p.m. till filing of the charge-sheet and shall cooperate with the investigating agency.

(iv) The applicants shall not directly or indirectly made any inducement, threat or promise to any person acquainted with the facts of the case, as also shall not tamper with the evidence.

(v) The applicants shall furnish their cell phone numbers and addresses with address proof.

Criminal application is disposed of.

(URMILA JOSHI-PHALKE, J.)