

Ajay

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

CRIMINAL BAIL APPLICATION NO. 5004 OF 2024

Mihir Shashikant Trivedi

.. Applicant

Versus

The State of Maharashtra

.. Respondent

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- Mr. Aniket Nikam a/w. Mr. Dushyant Digambar and Abhilasha, Advocates i/by Mr. Sumit Patil for Applicant.
- Mr. Hitendra J. Dedhia, APP for Respondent – State.
- Mr. Deepak Dummalwad, Thane Nagar Police Station present.

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CORAM : MILIND N. JADHAV, J.

DATE : FEBRUARY 26, 2025.

P.C.:

1. Heard Mr. Nikam, learned Advocate for Applicant and Mr. Dedhia, learned APP for Respondent – State.

2. This is an Application under Section 439 of the Criminal Procedure Code, 1973 seeking Regular Bail in connection with C.R.No.556 of 2024 registered with Thane Nagar Police Station for the offences punishable under Sections 420, 467, 468, 471, 276 and 34 of the Indian Penal Code, 1860 and Sections 18(a)(i) read with 17-B and 27-A of the Drugs and Cosmetics Act, 1940.

3. Applicant is the Director of M/s. Activentis Biotech Pvt. Ltd.. On the requisition made for supply of medicines by Vishal Enterprises, Kolhapur who had procured a Government contract for supply of specific medicines to the District Health Officer, Applicant supplied the

said medicines. Applicant is based in Mira Road, Thane. Case of the prosecution is that some of the samples of the medicines which was distributed by Vishal Enterprises, Kolhapur to the District Health Officer as Distributor were found to be spurious after analysis. Hence crime in question was registered.

4. *Prima facie*, it is seen that medicines have been procured by Vishal Enterprises, Kolhapur from the Applicant on invoice and delivery basis. This Court had the occasion to consider the Anticipatory Bail Application of the Proprietor of Vishal Enterprises, Kolhapur. In paragraph Nos.4 to 5 of the order dated 16.01.2025 while determining Anticipatory Bail Application No.127 of 2025 of the Proprietor of Vishal Enterprises, Kolhapur, the following observations were made by the Court which are *prima facie* material for consideration of the Applicant's case before me:-

"4. Prima facie the record clearly shows that the Applicant is a mere distributor procuring the said medicines from M/s Activenetis Biotech Pvt. Ltd. Thane. The medicines were procured on an invoice and delivery basis. Record shows that M/s Activenetis Biotech Pvt. Ltd. procured the said medicines from M/s Cabhi, S Generic House, Mira Road, Thane once again on invoice and delivery basis, details of which are available on record. Record further shows that M/s Cabhi, S Generic House, Mira Road, Thane procured the said medicines from M/s K.P. Medical Agency, Haryana. How they purchased the medicines is for the investigation to reveal.

5. The State Drugs Controller cum Licensing Authority of Haryana has revealed through official communication to the prosecution that the said M/s K.P. Medical Agency is not in existence and at the given address there is a barber's shop. The prosecution has thereafter addressed a letter to M/s Mrystal formulations, Uttarakhand who is the alleged manufacturer of the subject medicines in question. Said inquiry letter has been

returned back as not delivered. Prosecution has not taken any steps hereafter. Based on the above allegations FIR has been lodged against the Applicant. After giving him Section 41A notice to participate in the investigation and enquiry, the proforma charge-sheet is now filed impleading the Applicant as one of the accused.”

5. From the above, it is *prima facie* seen that Applicant before me is the Director of M/s. Activentis Biotech Pvt. Ltd.. He is one link in the chain of the Distributors / Suppliers of medicines. He is admittedly not the manufacturer of the medicines rather the said medicines are procured from the manufacturer through a chain of Distributors which is *prima facie* evident from the facts of the case.

6. Learned Single Judge of this Court, Nagpur Bench (Coram: Urmila Joshi-Phalke, J.) in the case of ***Suresh s/o Dattatraya Patil Vs. State of Maharashtra*** in Criminal Application (ABA) No.791 of 2024 by its order dated 11.12.2024 had considered a similar case identical on facts in respect of the Distributor of medicines through another Distributor and had granted Anticipatory Bail Application on the ground that Applicant is neither the manufacturer nor purchaser nor he had purchased the said medicines or procured the said medicines from the actual manufacturer. Same is the case with the Applicant before me. It is *prima facie* seen that Applicant who is the Director of M/s. Activentis Biotech Pvt. Ltd. has procured the said medicines from M/s. Cabhi, S. Generic House, Mira Road, Thane, another Distributor of the said medicines.

7. Applicant is incarcerated since 15.07.2024. Further custodial interrogation is not required and he shall render absolute cooperation to the investigation in all probability on the basis of documentary evidence.

8. In view of my above observations, Applicant has made out a case for grant of bail. The Bail Application stands allowed on the following terms and conditions:-

- (i) Applicant is directed to be released on bail on furnishing P.R. Bond of Rs.25,000/- (Rs. Twenty Five Thousand only) with one or two sureties of the like amount;
- (ii) Applicant shall report to the Investigating Officer at Thane Nagar Police Station, Thane as and when called by the Investigating Officer;
- (iii) Applicant shall co-operate with the conduct of trial and attend the Trial Court on all dates, unless specifically exempted and will not take any unnecessary adjournments, if he does so it will entitle the prosecution to apply for cancellation of this order;
- (iv) Applicant shall not leave the State of Maharashtra without prior permission of the Trial Court;

- (v) Applicant shall not influence any of the witnesses or tamper with the evidence in any manner;
- (vi) Applicant shall keep the Investigating Officer informed of his current address and mobile contact number and / or change of residence or mobile details, if any, from time to time, as applicable; and
- (vii) Any infraction of the conditions shall entail prosecution to apply for cancellation of bail granted to the Applicant.

9. It is clarified that the above observations in this order are limited for the purpose of granting bail only and I have not made any observations on the merits of the case and the trial shall proceed uninfluenced by the present order.

10. Bail Application is allowed and disposed.

[MILIND N. JADHAV, J.]

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