

Vaibhav Dnyaneshwar Phasalkar vs State Of Maharashtra on 18 April, 2024

Author: Sarang V. Kotwal

Bench: Sarang V. Kotwal

2024:BHC-AS:18855

IN THE HIGH COURT OF JUDICATURE AT BOMBAY

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CRIMINAL APPELLATE JURISDICTION

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ANTICIPATORY BAIL APPLICATION NO. 1063 OF 2024

Vaibhav Dnyaneshwar Phasalkar

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Versus

The State of Maharashtra

.... Res

Mr. Sachinkumar Rajepandhare , for the applicant.
Mr. C.D. Mali , APP for the State/Respondent.

CORAM :SARANG V. KOTWAL, J.

DATE : 18th APRIL, 2024 P.C. :

1. The Applicant is seeking anticipatory bail in connection with C.R No. 134 of 2024, registered at Pandharpur Police Station, Solapur, on 08/03/2024, under Sections 26(2)(i), 26(2)(ii), 26(2)

(iv), 27(3)(e), 30(2)(a) and 59 of the Food Safety and Standard Act, 2006 and under

sections 188, 272, 273, 328 of the Indian Penal Code.

2. Heard Mr. Rajepandhare, learned counsel for the Applicant and Mr. Mali, learned APP for the Respondent-State.

y.s.patil

16-ABA-1063-2024.odt

3. The FIR is lodged by Food Safety Inspector Umesh Bhuse. He has stated that on 07/03/2024, the Police Officer received a secret information that one Sanjay Honrao had a general store, one Aziz Tamboli had one godown and one Sagar Abhangrao had a residential premises where all three of them had stored prohibited articles for sale. Therefore, the police officers raided those premises and seized those contraband articles. Sanjay Honrao had stored pan masala, scented tobacco etc. worth Rs.

72,515/-. Those articles were the banned articles under Food Safety and Standards Act, 2006. Aziz Tamboli had stored similar articles worth Rs. 5 lakhs and Sagar had stored those articles worth Rs. 2600/-. Considering the quantity of the articles, it was clear that they were stored for sale. On this basis, the FIR is lodged. During the investigation it transpired that the Applicant had supplied those articles to Sanjay Honrao and Aziz Tamboli, therefore the Applicant is apprehending his arrest.

4. Learned counsel for the Applicant made following y.s.patil 2 of 5 16-ABA-1063-2024.odt submissions.

(i) Section 328 of the Indian Penal Code is not applicable. The only evidence against the Applicant is the statement of the co-

accused.

(ii) There is nothing to show that the Applicant was in touch with either of these persons who had stored those banned articles.

5. Learned APP opposed these submissions. He produced investigation papers before me. He submitted that the co-accused Sanjay Honrao has stated that those banned articles were supplied by the present Applicant. Similarly, the co-accused Aziz Tamboli has also stated that those articles were supplied by the present Applicant. He submitted that those statements are corroborated by the CDR collected by the Investigating agency. There are calls exchanged between the Applicant and Sanjay Honrao. Therefore, the statement of the co-accused Sanjay is supported by the corroborative

material. Learned APP also submitted that there are criminal antecedents against the present Applicant. All these offences are registered at Pandharpur Police Station. They are as y.s.patil 3 of 5 16-ABA-1063-2024.odt follows:

- (1) C.R. No. 129 of 2020 under section 364-A, 385, 386, 387 etc. of the I.P.C.
- (2) C.R. No. 4 of 2016 under section 302, 143, 147, 149 etc. of the I.P.C.
- (3) C.R. No. 28 of 2022 under the Arms Act and (4) C.R. No. 20 of 2023 under section 324 of the I.P.C.

Learned counsel for the Applicant submitted that the Applicant is acquitted from the offence under section 302 of the I.P.C. He is falsely implicated.

6. I have considered these submissions. The investigation papers include statements of other members of the raiding party i.e. other police officers and panchnama. There is a statement of one Prem, who was working in the general store of the accused Sanjay. All these statements support the FIR and the investigation. There are statements of the co-accused mentioning the role played by the Applicant. According to the prosecution case, as supported by the statements of arrested accused, the Applicant was the y.s.patil 4 of 5 16-ABA-1063-2024.odt supplier and therefore, he is the main accused in the entire offence. Their statement is supported by the C.D.R. collected by the investigating agency which shows that there was regular conversation between Sanjay Honrao and the present Applicant. Thus, there is definite material against the present Applicant. As far as applicability of Section 328 of the I.P.C. is concerned, this Court has already dealt with this issue in ABA No. 207 of 2024, decided on 30/01/2024, in the case of Mohammed Sadiq Adam Shaikh V/s State of Maharashtra. Considering all these aspects, no relief can be granted to the Applicant. His custodial interrogation is necessary. The Application is therefore rejected.

(SARANG V. KOTWAL, J.)

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