

Kantilal Talati vs The State Of Madhya Pradesh on 27 April, 2021

Author: Subodh Abhyankar

Bench: Subodh Abhyankar

1

MCRC No.18957/2021

High Court of Madhya Pradesh, Jabalpur
Bench at Indore
Miscellaneous Criminal Case No.18957/2021
(Kantilal Talati s/o Vijaychand Talati
Bharat Talati s/o Kantilal Talati
Jitendra Talati s/o Kantilal Talati
Versus
The State of Madhya Pradesh)

Indore, Dated 27.04.2021

Hearing through Video Conferencing.

Mr. Vinayak Balchandani, learned counsel for applicant No.1

Kantilal Talati s/o Vijaychand Talati, applicant No.2 Bharat Talati s/o
Kantilal Talati and applicant No.3 Jitendra Talati s/o Kantilal Talati.

Ms. Priyanka Raj Pawar, learned Panel Lawyer for the respon-
dent / State of Madhya Pradesh.

They are heard. Perused the case diary / challan papers.

This first application under Section 438 of Criminal Procedure
Code, 1973 for grant of anticipatory bail has been filed by the
applicants, as they are apprehending their arrest in connection with
Crime No.147/2021 registered at Police Station Gandhwani, District
Dhar (MP) for offence punishable under Sections 272, 273 and 420
of the Indian Penal Code, 1860.

The allegation against the applicants is that they happen to be
the Directors of the Talati Foods Private Limited and engaged in the
business of manufacture and sale. It is alleged that a sample of "Shri
Rajarani Gulab Jamun Mix" was seized by the Food Inspector from

Village Gandhwani, District Dhar (MP) on 27.10.2020 whereas the same was sent for chemical analysis on 22.02.2021, which was

2

MCRC No.18957/2021

received by the Laboratory on 23.02.2021 and after test, the report was given on 28.02.2021 (Annexure P/2) wherein it was found that the food article had microbiological contamination.

Counsel for the applicants has submitted that the applicants are reputed businessmen, they have no criminal past and are carrying out their business by adopting all the legal formalities. It is submitted that the food article seized by the Food Inspector has additional life of four months only and since its date of manufacture was 01.07.2020 and it was to expire on 01.11.2020, whereas the sample was seized on 27.10.2020 and it was sent on 22.02.2021, which in itself is in violation of Section 47 (2) of the Food Safety and Standards Act, 2006 (herein after referred to as the Act), which provides that a sample once seized has to be sent to the Laboratory immediately on the next succeeding working day. Thus, it is submitted that since the sample itself was sent after around four months, the entire process has already vitiated on account of non-compliance of mandatory provisions of the Act.

It is further submitted that even otherwise, as already stated, since self life of the food product was to expire on 01.11.2020 and it was tested after around three months from the date of its expiry, even if, there is any microbiological contamination, the applicants cannot be held responsible for the same. Thus, it is submitted that no purpose would be served to keep the applicants in jail in such

3

circumstances. Hence, the applicants be released on anticipatory bail, otherwise their reputation as also the reputation of their business shall be grievously jeopardized.

Counsel for the respondent / State, on the other hand, has opposed the prayer.

Having considered the rival submissions and perusal of the case diary, this Court finds force with the contentions raised by the learned counsel for the applicants it is apparent that the self life of the food produce's (Gujab Jamun) was from 01.07.2020 to 01.11.2020 and admitted after its seizure on 27.10.2020, it was sent for chemical analysis on 22.02.2021 which is in violation of the mandatory provisions of Section 47 (2) as also Section 46 (4) of the Act and in view of the same, even if there is any microbiological contamination, in the considered opinion of this Court, the applicants' custodial interrogation in such circumstances is not necessary.

Accordingly, this application is allowed. It is directed that in the event of arrest, applicant No.1 Kantilal Talati s/o Vijaychand Talati, applicant No.2 Bharat Talati s/o Kantilal Talati and applicant No.3 Jitendra Talati s/o Kantilal Talati shall be released on bail, upon each of them executing a personal bond only in the sum of Rs.25,000/- (rupees twenty five thousand only) to the satisfaction of the Arresting Officer (Investigating Officer).

The applicants shall make themselves available for interrogation by a Police Officer, as and when required. They shall further abide by the other conditions enumerated in Sub Section (2) of Section 438 of the Code of Criminal Procedure, 1973.

Accordingly, Miscellaneous Criminal Case No.18957/2021 stands allowed.

Certified copy as per rules.

(Subodh Abhyankar) Judge Pithawe RC RAMESH CHANDRA PITHWE 2021.04.28 13:03:59 +05'30'