

Waseem Akram S/O Mubin And Another vs The State Of Maharashtra Thr. Pso, Ps, ... on 12 August, 2024

2024:BHC-NAG:8952

46.ba.683.24.odt

IN THE HIGH COURT OF JUDICATURE AT BOMBAY,
NAGPUR BENCH, NAGPUR.

CRIMINAL APPLICATION (BA) NO.683 OF 2024
(Waseem Akram s/o Mubin and anr. Vs. State of Maharashtra)

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

Court's or Judge'

Mr. R. Tomar, Advocate for the applicants.
Mrs. H.N. Prabhu, APP for the State.

CORAM:- URMILA JOSHI-PHALKE, J.

DATED :- AUGUST 12, 2024.

By this application, the applicants are seeking bail as they were arrested on 09/06/2024 in connection with Crime No.436/2024 registered with Police Station Kalmeshwar, Nagpur for the offence punishable under Sections 188, 272, 273 and 328 of the Indian Penal Code and 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 crime is registered on the basis of report lodged by the Smita Vivek Babhare who is serving as a Food Inspector on an allegation that she received the secret information that the scented tobacco and Pan Masala is being transported in a vehicle container Eicher Truck No.HR-47-D-1048, therefore, she intercepted the said vehicle along with the other raiding party members and contraband articles were seized from the said vehicle. On the basis of said report police have registered the crime and the present applicants who are driver and cleaner are arrested.

3. Learned Counsel for the applicant submitted that as far as the seizure of the contraband article is concerned which is already seized. The investigation is practically completed, further incarceration of the applicants is not required. They are neither the owner of the truck or the said contraband articles which are seized by the investigating agency. In view of that, their further incarceration is not required, and therefore, they be released on bail.

4. Learned APP strongly opposed the application and submitted that other co-accused are absconding and therefore, the bail application deserves to be rejected. She further submitted that

the investigation is at initial stage.

5. I have heard learned Counsel for both the parties. Perused the recitals of the FIR and other investigation papers. As far as the application of Section 328 is concerned, the issue is pending before the Hon'ble Apex Court regarding the applicability. The contraband articles are already seized. Now nothing is to be recovered from the present applicants, their further incarceration is not required. At this stage, there is nothing on record to show that there are any criminal antecedents against the applicants. Considering all these aspects, the applicants have made out a case for grant of bail. Hence, the application deserves to be allowed. Accordingly, I proceed to pass the following order:

(i) The application is allowed.

(ii) The applicants - 1) Waseem Akram s/o Mubin and 2) Sahood s/o Mubin in connection with Crime No.436/2024 registered with Police Station Kalmeshwar, Nagpur for the offence punishable under Sections 188, 272, 273 and 328 of the Indian Penal Code and 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, be released on bail on executing P.R. Bond in the sum of Rs. 25,000/- each with one solvent surety each in the like amount.

(iii) The applicants shall attend the concerned police station twice in a month i.e. 1st and 15th day of every month and the Police Officer shall record their presence. The applicants shall cooperate with the investigating agency.

(iv) The applicants shall furnish their Cell phone numbers and address and shall furnish the names of their two relatives with their address proof before the investigating agency.

(v) The applicants shall not induce, threat or promise any witnesses who are acquainted with the facts of the present case.

6. The application is disposed of.

(URMILA JOSHI-PHALKE, J.) *Divya