

Mahesh Kumar Sharma vs The State Of Madhya Pradesh on 26 February, 2021

Author: B. K. Shrivastava

Bench: B. K. Shrivastava

1

MCRC-5924-2021

The High Court Of Madhya Pradesh

MCRC-5924-2021

(MAHESH KUMAR SHARMA Vs THE STATE OF MADHYA PRADESH)

4

Jabalpur, Dated : 26-02-2021

Shri Siddharth Singh Chouhan, learned counsel for the applicant.

Shri Vikram Johari, learned Panel Lawyer for the respondent/State.

Heard on application filed under Section 438 of Cr.P.C. filed on behalf of Mahesh Kumar Sharma for anticipatory bail who is under apprehension of his arrest in connection with Crime No. 218/2020 registered at Police Station, Crime Branch, Bhopal for the offences punishable under Sections 272, 273, 420 of IPC & Sections 51, 52, 26(ii) of Food Safety and Standards Act.

It is submitted by the applicant's counsel that the applicant has been falsely implicated in this case. He is a transporter by occupation. He is involved only in the transport of milk product booked through him and has no means to check the quality of the milk produce transported by him before transporting the same. The applicant only received the transportation freight for transporting the milk produce. He has no any relation with the offence of selling misbranded or adulterated milk product. Therefore, he should be granted anticipatory bail.

On the other side, the State strongly opposed the application. It is submitted by the State that the applicant is also doing the business of milk product and running a transport company at Gwalior. Who transported the articles of foods from time to time from Gwalior to Bhopal. Samples have been taken two times, which are found adulterated/misbranded.

It appears from the case diary that the offence has been registered upon the basis of written report submitted by Food Safety Officer Bhojraj Singh Dhakad posted at Bhopal. As per the case diary, the sample was taken on 20.10.2020 from the representative/worker Mohd. Sharif @ Sarik Khan. Total 11 samples were taken out of them 10 were found misbranded. On 09.11.2020 the again samples were taken and as per analysis report, thus the 2 MCRC-5924-2021 products were found substandard and misbranded.

It cannot be said that the applicant is only doing the transport business because his company is registered in the name of "Shiv Mava and Transport Company". It means he is doing the business of milk product with the business of transport. The applicant did not produce any document for

showing that the consignment was booked by some other person. Therefore, prima-facie is appeared that the applicant himself doing the aforesaid business and the samples were taken from his worker. Therefore, the applicant is liable for the offence. These type of offences are increasing day to day and they affect the entire health of society. Any lenient view cannot be adopted in these type of cases. The proceedings under N.S.A. Act, is also initiating by the State against the applicant.

Therefore, looking to the overall facts of the case, the applicant is not entitled to get the anticipatory bail. Hence, the petition is dismissed.

(B. K. SHRIVASTAVA) JUDGE dixit