

Sachin S/O Nanaji Lekkalwar vs The State Of Maharashtra Thr. Pso Mul Ps ... on 18 June, 2024

08.aba.419.24.odt

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

CRIMINAL APPLICATION (ABA) NO.419 OF 2024
(Sachin s/o Nanaji Lekkalwar Vs. State of Maharashtra)

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

Court's or Judge's Order

Mr. S.A. Mohta, Advocate for the applicant.
Mr. S.C. Joshi, APP for the State.

CORAM:- URMILA JOSHI-PHALKE, J.

DATED :- JUNE 18, 2024.

Heard.

2. By this application, the applicant is seeking pre-arrest bail. The applicant is apprehending arrest at the hands of police in connection with Crime No.204/2024 registered with Police Station Mul, District Chandrapur for the offences punishable under Sections 188, 273 and 328 of the Indian Penal Code and Sections 26(2)(iv), 3, 30(2)(a), 4 and 59(i) of the Food Safety and Standards Act, 2006, the applicant approached this Court for grant of pre-arrest bail.

3. Learned Counsel for the applicant submitted that the accusation against the present applicant is on the basis of report lodged by Kishor Damodhar Vairagade on an allegation that during patrolling duty they have received the secret information and on the basis of said information, they have conducted the raid in a shop of co-accused and during raid the contraband article i.e. scented nuts are found worth of Rs.21,340/-. He submitted that as far as present applicant is concerned his name is not mentioned in the FIR, merely on the basis of the statement of the co-accused he is implicated. As far as custodial interrogation is concerned which is not required. In view of that, he be protected by granting ad-interim protection.

4. Learned APP strongly opposed the application on the ground that the scented nuts which are found in the possession of the co-accused and in the contravention of the provisions of the Food Safety and Standards Act, 2006 and on the basis of his statement, the involvement of the present applicant is revealed. In view of that, the custodial interrogation of the present applicant is required, and therefore, prayer for ad-interim protection deserves to be rejected.

5. I have heard learned Counsel for both the parties. Perused the recitals of the FIR. As far as the present applicant is concerned who was not found at the spot, his involvement reveals on the basis of the statement of the co-accused, immediate custodial interrogation of the present applicant is not required. Moreover, the issue regarding the applicability of Section 328 of IPC is pending before the Hon'ble Apex Court. Considering all these aspects, at this stage, the applicant can be protected by granting ad-interim protection. Accordingly, I proceed to pass the following order :

(i) Issue notice to the non-applicant, returnable after two weeks.

(ii) Learned APP waives notice for the State.

(iii) In the event of arrest, the applicant -

Sachin s/o Nanaji Lekkalwar in connection with Crime No.204/2024 registered with Police Station Mul, District Chandrapur for the offences punishable under Sections 188, 273 and 328 of the Indian Penal Code and Sections 26(2)(iv), 3, 30(2)(a), 4 and 59(i) of the Food Safety and Standards Act, 2006, be released on ad-interim anticipatory bail on executing a P.R.Bond in the sum of Rs.25,000/- with one solvent surety, in the like amount.

(iv) The applicant shall attend the
concerned police station as and when

required for the investigation purpose and shall cooperate with the investigating agency.

(v) The applicant shall not directly or indirectly make any inducement and threat or promise to any person acquainted with the facts of the present case.

(URMILA JOSHI-PHALKE, J.) *Divya