

IN THE COURT OF DISTRICT JUDGE-1 & ADDITIONAL
SESSIONS JUDGE, PANVEL-RAIGAD
ORDER BELOW EXHIBIT 1 IN BAIL APPLN.NO.566/2020
CNR NO.MHRG170010462020
(Dated 16/01/2021)

In anticipation of arrest the applicant Dhanraj Nagnath Sule in crime registered with Panvel City police station in C.R.No. I 274/2020, u/sec. 420, 465, 467, 468, 470, 471, 120 (B) r.w.34 of IPC, u/sec.13 of Targeted Public Distribution System (TPDS) Control order-2015, u/sec.3, 7 of Essential Commodities Act and u/sec. 3 of Benami Transactions Act 1988, the applicant has filed application under section 438 of Cr.P.C.

2] It is to be noted that, though no interim relief has been granted to the applicant, at the request the notices were issued to the investigation agency and Ld.PP.

3] Heard Ld.Adv. Shri Nandkishor Patil for applicant who submitted that, the applicant is a businessmen doing business in the name and style as M/s Dhanraj Nagnath Sule at Barshi and having its offices at Krushi Utpanna Bazar Samiti, Barshi as Vyapari Varg 1 and at Vairag as Commission agent/ adtya varg 2. Ld.Adv.submittdd that the applicant is running his business regularly with permissions and permit of the said bazar samiti and is having good status in the society. Ld.Adv.submitted that, the applicant is anticipating his arrest in the present matter in the background of lodging of complaint in this matter after

certain interrogation on the complaint lodged by Circle Officer of Revenue Department, Panvel Shri Santosh Patil dated 01/08/2020 with information that, on information given by API Kadbane attached with Panvel City Police Station, vide letter dated 31/07/2020 that, the stock of rice meant for the ration distribution has been illegally stocked in the Palak Logistics and as such he effected the raid at the given spot where he noticed about 2220 gunny bags containing the rice in the packing bags of logo 'Asian Rice' as well as found around 1273 gunny bags having the prints like 'FCI', 'Government of Punjab', 'Government of Harayana' and some empty gunny bags alongwith 2 weighing scales. It has been claimed that, at the material time upon inquiry with the manager of said logistics company and on preliminary search, certain vouchers and transport bills were found and on the basis of said recovery the offence was registered with allegations that, the said stock of rice was made with intention to show the shortage in the market and thereby raising prices, for its illegal export, and/or for illegal adulteration with other rice etc.

4] Ld.Adv.submitted that, during the course of investigation it has been claimed that the investigation agency visited Barshi and also recovered certain documents in consonance with investigation regarding other accused persons wherein it has been revealed that, the goods i.e. 'rice' in bulk quantity have been purchased by M/s.Dhanalaxmi Traders and

it has been further claimed that, the co-accused persons have supplied the necessary rice in bulk quantity to the said firm which in turn has transported the same to the destination. Ld. Adv.submitted in the background of documents in the form of transaction vouchers supplied in the chargesheet filed against the arrested co-accused persons, it has been shown that, one Dhanraj Mule has supplied the necessary goods by sale through M/s. Dhanalaxmi Traders.

5] Ld.Adv.submitted that, the present applicant has no concern with said M/s Dhanlaxmi Traders, which has been allegedly manipulated firm by the other co-accused persons for their own benefits. Ld.Adv.with the help of the chargesheet filed against the other co-accused persons, submitted that, though the investigation agency has snapped the photographs of his shop, they have not visited or inquire with him during course of investigation. Ld.Adv. on the basis of bunch of documents filed by him submitted that, the applicant has only two bank accounts through which he conducts the business with other businessmen and at no stage he has dealt with other co-accused persons more particularly during the transaction period in this matter. Ld.Adv.further submitted that, the applicant has never deal in business of rice and he generally deal in other food grains for which he regularly deposit the cess to bazar samiti and have the necessary vouchers and receipts in his ordinary course of business.

6] Ld.Adv.submitted that, the applicant has been shown accused merely in some similarities in the name though there is difference in surname as “Mule” reflected in the chargesheet filed against other co-accused persons.

7] Ld.Adv.also submitted that, necessary documents received from Collector office, District Solapur regarding supply of food grains to the Targeted Public as per the provisions under Targeted Public Distribution System (Control) order 2015 during lockdown period and submitted that there are no allegations by any authority regarding misappropriation of rice or any other food grain from the said quota of food grains distributed by State Government.

8] Ld.Adv.submitted that, the applicant has no concern with other accused persons or with the alleged fraud or forgery which has been claimed or revealed during course of investigation and submitted that, the applicant has been implicated falsely with ulterior motive.

9] Ld.Adv.submitted that, none of the charged sections does applies to the present applicant either under E.C.Act, under IPC or even under Benami Transaction Act and further submitted that, Ld.Adv.also pointed out whatever alleged revealed forgery is concerned regarding the documents like vouchers, transport bills in the name of Dhanlaxmi Traders, the

applicant has no concern with the same, so also there is no evidence to show that any of the transaction has been done benami by the present applicant with any of the accused persons. Ld.Adv.submitted that, whatever transaction amount has been deposited in the bank accounts of the applicant are in his regular course of business, which shows clarity in the transactions.

10] Ld.Adv. submitted that, nothing is to be recovered from the applicant so as to cause his custodial interrogation as the applicant is not beneficiary in the alleged crime. Ld.Adv. submitted that, applicant has no criminal antecedent to his discredit and he is ready to co-operate with investigation. Ld. Adv.submitted that, applicant is permanent resident at the given address and are ready to abide the conditions that may be imposed by this court and prayed for necessary protection under section 438 of Cr.P.C.

11] Ld.APP Shri Bhopi resisted the application and submitted that, the applicant alongwith other co-accused persons in conspiracy have transported the rice which has been meant for Targeted public distribution by using bogus vouchers and transportation bills. Ld.APP submitted that other co-accused persons have searched for the persons having the quantity of rice stocked by them which was otherwise meant for public distribution and further collected the same for its further

disposal by searching other co-accused persons who later on purchased the same for its transportation. Ld.APP pointed out from the police report that, there is chain of accused persons involved in this scam which is yet to be disclosed in more clarity and the investigation so far is just an iceberg. Ld.APP. submitted that, the co-accused Rakesh Kilche has deposited an amount to the tune of Rs.83,88,400/- in the bank account of the present applicant during the said particular period which is a part of investigation.

12] Ld.APP also pointed out that from investigation so far it has been revealed that the accused persons have collected huge quantity of rice from various rationing shops and transported it together through the main accused Lakhan Patel who is master mind in the matter. Ld.APP submitted that, the scope of investigation in the matter is not restricted to the food grains reserved for public distribution but there exists a racket for grabbing such stock and resell the same in open market.

13] Ld.APP Shri Bhopi submitted that during investigation it has been revealed that the main accused Lakhan Patel with the help of his co-aids collected the rice from States like Karnataka and Rajsthan, which has been otherwise meant for its distribution by the Government to the targeted public as per the Government schemes. Ld.APP. submitted that, during course of investigation it has been revealed that, by false and

forged purchase receipts and transportation vouchers the rice has been transported to the spot of incident from where it has been exported by either adulterating the same with other rice or with the rice having the control and possession of FCI.

14] Ld.APP. submitted that, there occurred the CDR of the applicant having conversation with other accused persons during that period which shows his prima facie involvement in the crime. Ld.APP. submitted that, the matter in hand has several aspects and the same requires to be reveal which is only possible by custodial interrogation of the applicant with the other co-accused persons and further submitted that except the three accused persons who are ration shop owners of Karnataka State all other revealed accused persons including the present applicants have not been arrested and their arrest and joint interrogation is necessary for further investigation. Ld.APP.based his submissions on the basis of report submitted by investigation agency and the statement of witnesses and further submitted that, considering the voluminous quantity of rice found on the spot, custodial interrogation of the applicant is necessary in the matter and prayed for rejection of application.

15] Upon hearing Ld.Advocates and after going through the documents filed alongwith the application as well as subsequent documents filed during the course of arguments, so also the case papers submitted by the investigation agency.

16] Bare perusal of said report prima facie shows the investigation done by the team concentrating over the affairs of main accused Shri Lakhan Patel and it has been revealed that the alleged stock seized on the spot was purchased through the co-accused persons from M/s. Dhanlaxmi Traders who have transported the same to the spot of incident. From the investigation so far it revealed that there does appear some links of the present applicant with other co-accused persons which whisper from his bank transactions. It is also to be noted that from statements of the witnesses it is revealed that, they have transported the rice collectively from the State of Karnataka on the basis of the purchase vouchers of M/s Dhanalaxmi Traders which during the investigation found to be a firm on papers only having the similarities of the name and address of the present applicant only. The investigation agency has also collected the bank details of the co-accused Rakesh Kilche from whose accounts huge amount has been transferred to the account of present applicant as well as to the other co-accused persons and the CDR record also revealed certain record of phone calls of applicant to other co-accused persons during that period which shows some nexus of the applicant in the present matter.

17] As far as the applicability of particular section in the Acts applied by the investigation agency are concerned, it is to be noted that, the main accused persons including the present applicant have not been arrested and there are many aspects

which has been investigated so far shows that there is necessity of custodial interrogation of the applicant.

18] In the given circumstances considering the prima facie involvement of the applicant in the crime supported by other documents which are suspected to be forged one, this court is of the view that, custody of the applicant will be required for further interrogation and as such the applicant cannot be protected under section 438 of Cr.P.C. and his application is required to be rejected. Case papers returned. Hence, order.

ORDER

1] Application Exh.1 stands rejected.

2] Application is accordingly disposed of.

(Directly dictated in open court on the office computer.)

Panvel

(R. G. Asmar)

Dated :-16/01/2021

Addl. Sessions Judge, Panvel-Raigad

I affirm that the contents of this P.D.F. file order are same, word to word, as per the original order.

Name of the Stenographer	S.J.Sheth
Name of Court	District Judge-1 & Addl. Sessions Judge, Panvel-Raigad
Date of Dictation	16/01/2021
Order signed by the P.O. on	16/01/2021
Order uploaded on	18/01/2021