

MHNS100014132022

**Cri. Misc. (Bail) Application No. 399 of 2022****Mohd. Rehan Mohd. Sabir Vs. The State****Order Below Exh.1.**(Passed on 4th November, 2022)

1. The applicant / accused Mohd. Rehan Mohd. Sabir, resident of Chandanpuri Road, House No. 364/4, Shaniwar Ward, Hire Lane, Malegaon, Tal. Malegaon, Dist. Nashik has filed present application under Sec. 438 of the Cr.P.C. for grant of pre-arrest bail. He is apprehending arrest in Cr.No. 575/2021 registered against him at Chandwad Police Station for the offence punishable under Secs. 285 read with Sec. 34 of the Indian Penal Code, Secs. 3 and 7 of the Essential Commodities Act, 1955 and Sec. 25 of Bombay Weights and Measurements Act, 1998.

2. Brief facts leading to the case of prosecution are as under :-

On 31/10/2021 informant Dilip Trambak More, in-charge Supply Inspector, Chandwad Talashil Office lodged complaint with Chandwad police station stating therein that on 31/10/2021 he was informed by his superior officers that two persons were transporting bio-diesel kept in tank of one truck to the tank of other truck with the help of electric connection. Therefore,

alongwith police persons and in presence of panchas raid was conducted on Bombay-Agra Highway near Hotel Rajmudra. They found that two persons were transporting bio-diesel from the tank of truck bearing No. MH-04/CA-8537 to the tank of truck bearing No. MP-43/H-0757 with the help of nasal pipe. In the inquiry, the said persons disclosed their names as Mobin Akil Shaikh and Farhan Ali Mohd. Arshad. Mobin Akil Shaikh disclosed that he used to fill bio-diesel in the truck and other vehicles with the help of machine. Siraz Shah resident of Malegaon is supplier of bio-diesel. It is also revealed that they did not have any licence to possess or sale the bio-diesel. Police seized both the vehicles, tank of bio-diesel, machine used to transfer the bio-diesel, hose pipes etc. Samples of bio-diesel were obtained in presence of panchas and were sent to CA Office for chemical analysis. After returning to the police station, the informant lodged complaint against accused persons. On the basis of the said complaint, above-said offence came to be registered against accused person.

3. Learned advocate for the applicant vehemently submitted that the accused is falsely implicated in this crime. His name is not mentioned in the FIR. There is no need of custodial interrogation of the accused / applicant. Nothing is to be seized from the present applicant / accused. Admittedly, he was not present at the spot of incident. Other accused persons are already released on bail including main culprit Siraz Shah. Investigation of the crime is almost completed. The accused / applicant has no

criminal antecedents. He is ready to abide conditions of bail and are ready to co-operate with the investigation, therefore, he prayed to grant the pre-arrest bail.

4. Learned A.P.P. for the State resisted the application on the grounds that the accused have committed serious offence of Storage and sale of bio-diesel. Present accused was working as a driver on tanker. Custodial interrogation of the accused is necessary for thorough investigation of the crime and to ascertain from where he brought the said bio-diesel / kerosene. Considering the gravity and seriousness of the offence, accused is not entitled to be released on pre-arrest bail. Hence, he prayed to reject the application.

5. Upon hearing both the learned Advocates and perusing the documents on record it appears that there is no need of custodial interrogation of the accused / applicant. Investigation of the crime is almost over. Nothing is to be recovered from the applicant / accused. There is no possibility of the applicant fleeing from the justice. Mere apprehension that accused may tamper the prosecution evidence is not a ground to reject the pre-arrest bail application. No capital punishment or punishment of imprisonment for life is provided for the offences alleged against accused. Presence of the accused before Investigating Officer for the purpose of inquiry can be secured by imposing appropriate conditions on him. Therefore, it is crystal clear that arrest of the present accused is not necessary for

investigation of the crime. Considering all these aspects, I come to the conclusion that application deserves to be allowed. In the result, I proceed to pass the following order.

ORDER

- 1) Application is allowed as under.
- 2) Applicant / accused Mohd. Rehan Mohd. Sabir, resident of Chandanpuri Road, House No. 364/4, Shaniwar Ward, Hire Lane, Malegaon, Tal. Malegaon, Dist. Nashik be released on bail in the event of arrest, on furnishing PR bond sum of Rs.15,000/- and one surety of like amount, in connection with Cr.No. 575/2021 registered against him at Chandwad Police Station for the offence punishable under Secs. 285 read with Sec. 34 of the Indian Penal Code, Secs. 3 and 7 of the Essential Commodities Act, 1955 and Sec. 25 of Bombay Weights and Measurements Act, 1998.
- 3) The accused shall attend Chandwad police station on alternate Thursday in between 11.00 to 01.00 p.m. and shall co-operate with the investigation. They are also directed not to tamper with the prosecution witnesses in any way and in any manner, in-default his bail is liable to be cancelled.
- 4) Intimation to Chandwad Police Station .

5.

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5) P. & D. in the open Court.

Date : 04/11/2022.

Sd/-
(A.V. Gujarathi)
Additional Sessions Judge,
Niphad.