

MHCC020169752022



IN THE SESSIONS COURT FOR GREATER MUMBAI
AT MUMBAI
ANTICIPATORY BAIL APPLICATION NO.2772 OF 2022
(CRIME NO.1082 OF 2022, N. M. JOSHI MARG POLICE STATION)

CNR No.MHCC02-016975-2022

1. Pancham Durga Gupta,]
Aged about 66 years, Hindu,]
Occ. : Retired,]
Residing at : 3/302, Shiv Sai Niwas,]
S. S. Amrutvar Marg, Delisle Road,]
Opp. BDD Chawl No.119, Worli,]
Mumbai – 400 013.]

2. Bipat Bhulan Gupta,]
Aged about 73 years, Hindu,]
Occ. : Retired,]
Residing at : 401, 4th Floor, Shiv Sai]
Niwas, Delisle Road, S.S. Amrutvar Marg,]
Near - Sumer Kendra, Worli,]
Mumbai – 400 013.]

... Applicants

Vs.

State of Maharashtra,]
At the instance of N. M. Joshi Marg police]
station, Through Public Prosecutor,]
Old Secretarial Building, Fort, Mumbai.]

... Respondent

Appearances :-

Mr. Shashikant Dubey, Ld. Adv. for applicants.

Mr. J. N. Suryawanshi, Ld. A.P.P. for respondent/State.

**CORAM : VISHAL S. GAIKE,
ADDL. SESSIONS JUDGE,
COURT ROOM NO.22.**

DATE : 24th January, 2023.

ORDER

1. This is an application under Section 438 of the Code of Criminal Procedure for grant of anticipatory bail in connection with Crime No.1082 of 2022 registered at N. M. Joshi Marg police station for the offence punishable under Section 420 r/w. 34 of the Indian Penal Code along with Sections 3, 7 and 8 of the Essential Commodities Act, 1955 along with provision 315 of the National Food Security Act, 2013 along with Section 3(A) and 5 of the Maharashtra Foodgrains Rationing (Second) Order, 1966 along with Sections 18, aaa, f, j and 18(5) of the Maharashtra Foodgrains Rationing along with Sections 6, 7 and 8 of the Bombay Rationing Area Scheduled Commodities (Regulation of Public Distribution) Order, 1986 along with provisions of Republic Distribution System Control Order, 2001.

2. It is the case of the prosecution that, on 08/12/2022, Rationing Inspectors Balu Bajirao Jadhav, Chetan Prabhakar Rajgadkar and Smt. Sushma Deepak Kasale visited fair price shop No.20 A 82 situated in Gala No.20, Shivnagar Shivshahi S.R.A. Co-Operative Housing Society, S. R. Amrutwar Marg, opposite B.D.D. Chawl No.119, Worli. Thereafter, in the presence of two panch witnesses, they inspected the said shop. The applicant Pancham Durga Gupta was present at the said spot and he allegedly informed that the business of the said shop was being looked after by him and Bipat Gupta. It was allegedly revealed during the inspection that 3,550 Kilograms of rice in

excess was found and 900 Kilograms of wheat sent to the said fair price shop was not found. That discrepancies in other record of the said shop were also found. The applicant No.1 allegedly confessed that after the earlier inspection dated 23/11/2022, he had procured the said rice from other shops for complying or removing the deficiencies found in the earlier inspection. Thereafter, statement of applicant No.1 was recorded and he allegedly signed on it. Thereafter, the present F.I.R. was given.

3. The say of the Investigating Officer was called. He has stated that, the applicants have not co-operated in the investigation despite of receiving notice under Section 41(1)(A) of the Code of Criminal Procedure. They have cheated the Government as well as poor Ration Card holders. They committed the second crime during on bail in Crime No.1060 of 2022 of N. M. Joshi Marg police station. They have illegally sold the wheat, rice, etc. of the fair price shop in the black market. The details of the said illegal sale is to be investigated. Hence, the application may be rejected.

4. Heard the parties. Learned counsel for the applicants submitted that, the applicants are innocent and have not committed any offence, as alleged. The applicant No.1 is 66 years old and applicant No.2 is 73 years old. They are suffering many age related ailments. The action taken against them during the alleged inspection dated 08/12/2022 was illegal. Therefore, they have made a complaint in writing to the Deputy Controller Distribution, Rationing, Parel, Mumbai, on 09/12/2022. The applicants had submitted their resignation letter dated 05/03/2021 to the concerned authorities, but

till the date of alleged inspection, their resignation was not accepted. Due to their ill-health, Sanchan Pancham Gupta was looking after the business of the said shop. No foodgrains of the fair price shop has been sold in black market by the applicants. False record was prepared by the complainant and other Rationing Inspectors during the said inspection. The applicants are ready to co-operate in the investigation and abide any condition which may be imposed upon them in the event of their application being allowed. Hence, the interim relief granted to them may kindly be made absolute.

5. Learned A.P.P. vehemently opposed the application and reiterated the contents of the say of the Investigating Officer.

6. I have given a thoughtful consideration to the submissions made by the parties. The record show that the applicants had already given their resignation application dated 05/03/2021 to the concerned authorities, but for the reasons best known to the said authorities, their resignation was not accepted. Despite of receiving the said resignation application, foodgrains were sent to the said fair price shop for distribution in public. Reportedly, the son of applicant No.1 was looking after the work of said shop. The age of applicant No.1 is 66 years and age of applicant No.2 is 73 years. Therefore, considering the nature of allegations and particularly the age of applicants, I am of the opinion that there is no need of custodial interrogation of the applicants. Hence, I proceed to pass the following order :-

ORDER

1. Anticipatory Bail Application No.2772 of 2022 is hereby allowed.

2. In the event of arrest of applicant Nos.1. Pancham Durga Gupta and 2. Bipat Bhulan Gupta in connection with C.R. No.1082 of 2022 under Section 420 r/w. 34 of the Indian Penal Code along with Sections 3, 7 and 8 of the Essential Commodities Act, 1955 along with provision 315 of the National Food Security Act, 2013 along with Section 3(A) and 5 of the Maharashtra Foodgrains Rationing (Second) Order, 1966 along with Sections 18, aaa, f, j and 18(5) of the Maharashtra Foodgrains Rationing along with Sections 6, 7 and 8 of the Bombay Rationing Area Scheduled Commodities (Regulation of Public Distribution) Order, 1986 along with provisions of Republic Distribution System Control Order, 2001 registered with N. M. Joshi police station, they shall be released on executing their P.R. bond of Rs.30,000/- each with one or more sureties each in the like amount, and on following conditions :-

(a) They shall not tamper with the prosecution witnesses and evidence ;

(b) They shall furnish their detail address, mobile/contact number, address proof, identity proof at the time of furnishing bail ;

(c) In case of change of their residence or mobile/contact number, they shall inform it to the Court and Investigating Officer ;

(d) They shall attend the concerned police station on every Sunday between 1.00 p.m. to 5.00 p.m. for the purpose of investigation till filing of the charge-sheet ;

(e) They shall attend the Court regularly, if any charge-sheet is filed against them ;

(f) They shall co-operate with the Investigating Officer ;

(g) They shall not leave the jurisdiction of this Court without the permission of concerned Metropolitan Magistrate and if the case is committed to this Court, without the permission of this Court ;

(h) They shall not give any threat or pressurise the complainant and witnesses in any manner which may dissuade them from disclosing any fact of the case to the police officer or to the Court.

3. Anticipatory Bail Application is disposed off accordingly.

(VISHAL SADASHIVRAO GAIKE)
ADDL. SESSIONS JUDGE,
CITY CIVIL & SESSIONS COURT,
GREATER MUMBAI.

Date : 24/01/2023.

Directly typed on Computer on : 24/01/2023.
Printed on : 25/01/2023.
Signed on :

"CERTIFIED TO BE TRUE AND CORRECT COPY OF THE ORIGINAL SIGNED JUDGMENT/ORDER."	
UPLOAD DATE AND TIME 25/01/2023 at 3.50 p.m.	NAME OF STENOGRAPHER Bahushruta Y. Jambhale
Name of the Judge (With Court Room No.)	H.H.J. Shri Vishal S. Gaike (Court Room No.22)
Date of Pronouncement of JUDGMENT/ORDER	24/01/2023.
JUDGMENT/ORDER signed by PO. on	25/01/2023.
JUDGMENT/ORDER uploaded on	25/01/2023.