



Order below Exh.1 in Cri. Bail Application No.226/2022
[Akash Sanjay Dalavi V/S State]

This application is moved by the applicants-accused under Section 438 of the Criminal Procedure Code in connection with the CR No.54/2022 registered with Sinnar Police Station under Sections 285 r/w 34 of the Indian Penal Code alongwith under Sections 3 and 4 of the Petroleum Rules and Regulations, 1934 and Sections 3 and 7 of the Essential Commodities Act.

2. It is stated in the application that, applicant No.1 is a driver, who was driving alleged tanker at the time of the incident. Applicant Nos.2 and 3 are owners and partners of Soham Traders. They are dealing as a mediator in sale and purchase of BVT Imports Hydro Oil, which is used in industrial sector. They have collected this oil from Omsai Imports and Exports and Logistic, Mumbai. It is their role to accept the purchase orders and placed them before Omsai Imports and Exports and Logistic, Mumbai send the oil in their tanker to various places as per the order placed. The applicants-accused have enclosed the report issued by Chemical Analysis stating that tanker does not contain Bio-Diesel fuel. A copy of Tax invoice enclosed herewith that the said fuel is purchased by Vaishnavi Fuel Services, Ahemadnagar. Only mistake on part of the applicants is that the necessary documents were not with the applicant No.1, when the said tanker was seized by the Police.

3. These and other grounds set-out in the application, the applicants prayed for anticipatory bail.

4. The anticipatory bail application is strongly opposed by the State. The I.O. has submitted his report.

5. Heard both the parties. The Ld. Counsel representing the applicants Shri. Amit Pradhan submitted that the applicant No.1 was failed to produce the documents pertaining to the oil, therefore the said tanker was taken into custody by the Police. However, his clients have all documents regarding the said oil with them and no illegality had been occurred in the said transaction. The documents pertaining to the said transaction are available in the Office of applicant Nos.2 and 3. They are dealing in the said business since eight years and their antecedents are clean. They are ready to produce all documents pertaining to the said transaction to the I.O. Therefore, prayed for anticipatory bail.

4. On the other hand, the Ld. A.P.P. Shri. Suryawanshi submitted that the applicants-accused have transported the industrial oil in violation of provisions of Essential Commodities Act and therefore he justified the action taken by the Police machinery. He submitted that the custodial interrogation of the applicants are essential in order to reveal the modus-operandi of the present transaction in question. Therefore, he submitted that the tanker bearing No. MH-16/CC-5573 was containing petroleum product and the driver was not holding any documents pertaining to the said oil. Therefore, the tanker was seized by the Police. Shri.

Shrikant Patil , Assistant Police Inspector representing the I.O. submitted that he has to investigate the matter thoroughly and till this date the accused Nos.2 and 3 did not produce any documents to the Police Station pertaining to the said petroleum product. He produced the documents pertaining to the investigation so far done by the Police. On perusal of the record, it appears that at the time when the said tanker was apprehended by the Police the applicant No.1 who was the driver of the said tanker was not holding requisite papers pertaining to the said industrial oil. So far as the connection of accused Nos.2 and 3 are concerned, the accused No.1 was working for accused Nos.2 and 3. Their role in the case is not denied by the Ld. Counsel Shri. Amit Pradhan. Therefore, so far as the involvement of the accused is concerned, it appears there is prima-facie case against them the case relating the essential commodities pertaining petroleum product. Therefore, the Police are required to ascertain the modus-operandi of the applicants-accused in connection with this Crime and therefore the custodial interrogation of the applicants-accused is essential. Therefore, the present bail application can not be entertained. Hence, the order.

ORDER

1. Anticipatory Bail Application No.226/2022 is hereby rejected.
2. Inform concerned police station accordingly.

Date : 21.02.2022

(M. A. Shinde)
Additional Sessions Judge-8, Nashik.