

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY  
CRIMINAL APPELLATE JURISDICTION**

**ANTICIPATORY BAIL APPLICATION NO.2561 OF 2019**

Rohit Bharat Suchak	...	Applicant
Versus		
State of Maharashtra	...	Respondent

**ALONG WITH  
ANTICIPATORY BAIL APPLICATION NO.2455 OF 2019**

Umesh Shrirang Bansode	...	Applicant
Versus		
State of Maharashtra	...	Respondent

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Sharian Mukherji I/b Chandan Mukherji for the Applicant in ABA No.2561 of 2019.  
Dheeraj Panchange for the Applicant in ABA No.2455 of 2019.  
S.V. Sonawane, APP for the Respondent-State.

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**CORAM : N.J. JAMADAR, J.**

**DATE : 30<sup>th</sup> OCTOBER 2021**

**P.C. :**

. Apprehending arrest in C.R. No.460 of 2019 registered with Mahatma Chowk Police Station Kalyan for the offences punishable under Sections 420, 285 and 286 read with Section 34 of the Indian Penal Code, 1860 and Sections 3, 7 and 8 of the Essential Commodities Act, 1955, the Applicants have preferred these applications for pre-arrest bail. Rohit Suchak, the Applicant in ABA No.2561 of 2019, is the son of Bharat Suchak, who runs a gas agency,

namely, Kalyan Gas Services, which is a distributor of Bharat Petroleum Corporation Limited ("BPCL"). Umesh Bansode, the Applicant in ABA No.2455 of 2019, is a delivery boy.

2 The allegations against the Applicants are that on 5 October 2019, in pursuance of the secret information received by Mahatma Phule Chowk Police Station, a raid was conducted at the godown of Kalyan Gas Services, situated near Bhanu Sagar Theatre, Kalyan. Ramakant Pashte, Supervisor, and Mr. Ramesh Gurav, Godown Keeper were present thereat. During the course of raid, it transpired that Dinesh Sherkhane, a delivery boy was extracting LPG from domestic cylinder and filling the same into a commercial cylinder. Further investigation revealed that the said exercise was done at the instance of Rohit Suchak, son of Bharat Suchak, who was running the said Kalyan Gas Services and another delivery boy Umesh Bansode, the Applicants. Police weighed cylinders and found discrepancy in the labelled weight and actual contents of the cylinders. A panchnama was drawn. The Applicants and said Ramakant Pashte, Supervisor, Ramesh Gurav, Godown Keeper, and Dinesh Sherkhane, another delivery boy, were arraigned for the aforesaid offences.

3 The Applicants preferred applications for anticipatory bail before the learned Sessions Judge, who was persuaded to reject the applications opining that offences were of serious nature.

4 By an order dated 13 November 2019 (ABA No.2455 of 2019) and 22 November 2019 (ABA No.2561 of 2019), this court granted interim relief to the Applicants.

5 I have heard Sharian Mukherji, learned Advocate appearing for the Applicant in ABA No.2561 of 2019 and Dheeraj Panchange, learned Advocate appearing for the Applicant in ABA No.2455 of 2019 and S.V. Sonawane, learned APP for the State. With the assistance of the learned Counsels, I have perused material on record.

6 Learned Counsel for the Appellants would urge that, admittedly, the Applicants were not present at the scene of occurrence, when the LPG was allegedly being extracted from domestic cylinders and filled in, in commercial cylinders. Neither there has been any grievance from any of the consumers, nor BPCL ever alleged that LPG was being extracted from domestic cylinders,

and, thus, there was short supply to the consumers. It was further submitted that the offence has been registered against the Applicants at the instance of a brother of Bharat Suchak, on account of disputes amongst the brothers over the management of family businesses. Attention of the court was invited to various reports lodged by Bharat Suchak, the father of Rohit, alleging criminal breach of trust and cheating by his brother.

7 As against this, Ms. Sonawane, learned APP for the State would urge that the seriousness of the offences, which have the propensity to cause a grave public mischief cannot be lost sight of. Removing LPG from domestic cylinders and filling the same into cylinders meant for commercial use, is fraught with danger to human lives, apart from pecuniary loss. In these circumstances, according to Ms. Sonawane, learned APP, the learned Sessions Judge was justified in declining to exercise the discretion in favour of the Applicants as to unearth the fraudulent acts, custodial interrogation of the Applicants is warranted, submitted Ms. Sonawane.

8 Evidently, none of the Applicants were present when the alleged raid was conducted by police at the godown of Kalyan Gas

Agency. As it was alleged that the said raid was conducted based on a secret information, the investigating officer was directed to tender the extract of station diary in a sealed envelop so as to protect the identity of the secret informer. The investigation officer has tendered the said information in a sealed cover, which mentions that information was received from a police informer. This aspect of the matter, at this stage, does not assume much significance. Hence, the sealed cover is returned to the investigation agency.

9 The indisputable fact that the Applicants were not present at the scene of occurrence, leaves the prosecution case to hang in balance to the thread of the statement allegedly made by Dinesh Sherkhane, the co-accused. At this stage, in the absence of any other material, it would be rather hazardous to give much weight to the statement of Sherkhane, the co-accused. Even otherwise, there is material on record to indicate that a family feud has been going on between the father of the Applicant Rohit and former's brothers over the management of family concerns. The complaints and cross-complaints seem to have been made.

10 Viewed through the aforesaid prism, it does not appear that the

custodial interrogation of the Applicants is warranted. The investigating agency has already seized incriminating material. The co-accused, Ramakant Pashte, Ramesh Gurav and Dinesh Sherkhane have already been released on bail.

11. The Applicants also appear to have roots in society. In the backdrop of nature of the accusation, there is a remote possibility of tampering with evidence and threatening the witnesses. Thus, at this length of time, there does not seem any reason not to make the interim order absolute.

12 For the foregoing reasons, I am impelled to allow the applications. Thus, the following order :-

**: O R D E R :**

- (a) The Anticipatory Bail Applications stand allowed;
- (b) The order of interim bail in Anticipatory Bail Application No.2561 of 2019 dated 22 November 2019 is made absolute on the terms and conditions incorporated therein;
- (c) The order of interim bail in Anticipatory Bail

Application No.2455 of 2019 dated 13 November 2019 is made absolute on the terms and conditions incorporated therein;

- (d) In addition, the Applicants, Rohit Bharat Suchak in ABA No.2561 of 2019 and Umesh Shrirang Bansode in ABA No. 2455 of 2019, shall appear before the jurisdictional Court, in the event of filing of the charge-sheet, regularly.

**(N.J. JAMADAR, J.)**