

FARAD CONTINUATION SHEET NO.

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
APPELLATE SIDE, BENCH AT AURANGABAD

CRIMINAL APPLICATION NO. 2833 OF 2015

[Sk. Sujauddin Sk. Khaliluddin Vs The State of Maharashtra]

Office Notes, Office Memoranda of Coram, appearances, Court's orders or directions and Registrar's orders	Court's or Judge's orders
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Shri R.R.Mantri, advocate h/f
Shri R.R.Sancheti, advocate for applicant
Smt. S.G.Chincholkar, A.P.P. for respondent

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CORAM : V.M.DESHPANDE, J.
DATED : 17th June, 2015

PER COURT :-

- 1] Heard Shri R.R.Mantri, advocate holding for Shri R.R.Sancheti, learned counsel for applicant and Smt. S.G.Chincholkar, learned Additional Public Prosecutor for the respondent/State.
- 2] This is an application under Section 438 of the Code of Criminal Procedure, since the applicant apprehends his arrest in connection with Crime No. 70 of 2015, registered with Osmanabad Rural police station, for the offences punishable under Sections 272, 273, 188, 328 of the Indian Penal Code and Sections 26 and 30 of the Food Safety and Standards Act, 2006.
- 3] The first information report discloses that on 15.5.2015 two trucks were intercepted. On search of the said trucks, it was found that those trucks contained Hira Pan Masala and Tobacco. The trucks were seized. The articles i.e. Hira Pan Masala and Tobacco were also seized. The present applicant was there, however, it appears, that time he was not arrested.

4] The State has filed the reply opposing the application for anticipatory bail. According to the reply, a notification is in field prohibiting possession, transport, etc. of Pan Masala.

5] In so far as applicability of Section 328 of the Indian Penal Code in such type of cases, learned counsel invited my attention to the fact that the said question is pending before the Division Bench of this court in Criminal Application No. 5207 of 2013 and also other companion matters. The order, dated 28.11.2013 in Criminal Application No. 5207 of 2013 shows that the matter is admitted and the Division Bench of this court has already stayed the prosecution.

7] Presently the question that is posed before this court is about the custody of the present applicant. Admittedly, all the contraband articles are seized and they are in possession with the Food Safety Department. According to the learned Additional Public Prosecutor, custody of the present applicant is required for interrogation and for further investigation.

The reply of the investigating officer shows as to why the custody of the present applicant is required as spelt out in paragraph 7 of the reply. It further shows that the investigating officer wants custody of the present applicant to know from him as to from which place and how the applicant has come in possession of the said contraband articles. The said can be achieved by directing the applicant to remain present with the investigating officer. That leads me to pass the following order.

ORDER

- (i) The application is allowed.
- (ii) Applicant-Sk.Sujauddin Sk.Khaliluddin be released on anticipatory bail on he executing P.R.bond of Rs.One Lac with two solvent sureties in the like amount, in the event of his arrest, in connection with Crime No. 70 of 2015, for the offences punishable under Sections 272, 273, 188, 328 of

the Indian Penal Code, registered with Osmanabad Rural Police Station.

(iii) The applicant shall attend the investigating officer from 20.6.2015 and he shall continue to attend the investigating officer till 24.6.2015.

(iv) During the period from 20.6.2015 to 24.6.2015 he shall be with the investigating officer from 11.00 a.m. to 5.00 p.m.

(v) The applicant shall attend for three more dates if the investigating officer is of the view that his further presence is required, after 24.6.2015.

(vi) If the investigating officer thereafter wish to have presence of the present applicant, then in that event the investigating officer shall give a written communication to the present applicant giving 48 hours time for his attending the investigating officer.

(vii) The applicant shall furnish his permanent address of residence and also his telephone numbers, both the land line and also the cell phone.

(viii) The applicant shall extend all cooperation to the investigating officer.

(ix) With the above observations, application is disposed of.

(V.M.DESHPANDE, J.)

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