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

ANTICIPATORY BAIL APPLICATION NO.1302 OF 2015

Raju Laxman Pachhapure

... Applicant

Vs

The State of Maharashtra

... Respondent

Mr.Harshad H. Ponda i/b Mr.Vinayak R. Patil, for the Applicant.

Ms.Veera Shinde, APP for the Respondent – State.

CORAM : REVATI MOHITE DERE, J.

DATE : 03rd SEPTEMBER, 2015

P.C. :

1. Heard learned counsel for the Applicant and the learned APP for the Respondent - State.

2. By this Application, the Applicant seeks pre-arrest bail, in connection with C.R. No.159 of 2015, registered with the Shivajinagar Police Station, Kolhapur, for the alleged offences punishable under Sections 188, 272, 273, 289, 353, 341 and 328 of the Indian Penal Code and Section 59 of Food Safety and Standards Act, 2006.

3. The complaint has been filed by one Aabhinandam Mahavir Randive, Food Safety Officer, Food and Drug Office, Kolapur. He has alleged that on 19th August, 2015, at about 6 p.m., he received information that the present applicant had illegally stored gutka, mava, tobacco and other banned substances in a room owned by him and that the said articles were meant for sale. Pursuant to the said information, a raid was conducted and banned substances worth Rs.1,42,450/- were seized from the spot. Thereafter, upon further enquiry, it was revealed that the applicant was manufacturing the banned substances in one shed. Accordingly, a raid was conducted, lock was broken open and inside the shed banned substances were found and in one of the rooms manufacturing machines were found.

4. Learned Counsel for the Applicant submits that admittedly the applicant was not present in the room or at the godown, at the time when the raid was conducted. He submitted that considering the nature of allegations as are disclosed in the FIR, no offences under Sections 328 and 352 of the Indian Penal Code are disclosed. He submitted that apart from the said Sections, rest of the Sections alleged by the complainant are

bailable.

5. Learned APP submitted that Section 328 of the Indian Penal Code would apply to the facts of the said case. She submitted that the banned substances were stored by the applicant in the godown for sale. She submitted that the Applicant was involved in similar cases in the past and that there are six cases registered as against him.

6. Perused the papers. *Prima-facie*, the application of Section 328 of the Indian Penal Code is doubtful. Admittedly, the applicant was not present at the spot. As the applicant was not present at the spot, it is also doubtful whether Section 353 of the of the Indian Penal Code will apply. As far as antecedents are concerned, it appears that there are six cases registered as against the present applicant, which are similar in nature. Keeping in mind the antecedents, strict conditions can be imposed on the applicant.

7. Considering the peculiar facts of the case and what is observed hereinabove, with regard to the applicability of Sections 328 and 353 of the

of the Indian Penal Code, the Applicant is granted anticipatory bail on the following terms and conditions:-

ORDER

- i) In the event of arrest, the Applicant be released on cash bail in the sum of Rs.1,00,000/-, for a period of two weeks. The Applicant shall thereafter furnish P.R. Bond of Rs.1,00,000/- with one or more sureties in the like amount, within a period of two weeks of his release on cash bail ;
 - ii) The Applicant shall attend the Shivajinagar Police Station, Kolhapur, on the 1st and 3rd Saturday of every month between 10.00 a.m. to 12.00 noon, till the conclusion of the trial;
 - iii) The Applicant shall not tamper or attempt to influence the complainant or any persons concerned with the case ;
 - iv) The Applicant shall not indulge in similar activities ;
 - v) The Applicant shall co-operate in the conduct of the trial.
8. The Application is allowed and disposed of in above terms.
9. It is made clear, that the observations made herein are prima-facie and are confined to this application and the learned Judge to

decide the case on its own merits, uninfluenced by the observations made herein.

10. Parties to act upon the authenticated copy of this order.

REVATI MOHITE DERE, J.