

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
ANTICIPATORY BAIL APPLICATION NO. 651 OF 2016**

Amol Bhairavnath Gangane

...Applicant

Versus

The State of Maharashtra

...Respondent

Mr. Nitin B. Patil for the Applicant

Mr. Arfan Sait, A.P.P for the Respondent-State

PSI Mr. Sanjay Dhotre from Pandharpur Taluka Police Station is present

CORAM : REVATI MOHITE DERE, J.
TUESDAY, 26th APRIL, 2016

P.C. :

1. Heard learned Counsel for the applicant and the learned A.P.P for the State.

2. By this application, the applicant seeks pre-arrest bail in connection with C.R. No. 260 of 2015 registered with the Pandharpur Taluka Police Station, Pandharpur, for the alleged offences punishable under Sections 328, 188, 272, 273 r/w 34 of the Indian Penal Code and under Sections 26(1), 26(2)(I), 26(2)(IV) and Sections 3, 1, 7 of the Food Products Standards and Food Activities Act and Sections 2, 3, 4 of the

Prohibition and Restrictions on Sales, Regulation 2011 and Sections 7, 13 of Prevention of Corruption Act.

3. Learned Counsel for the applicant submitted that the applicant was a cleaner of the truck which was seized, in which 52 bags of Vimal Pan Masala worth Rs. 12,48,000/- and 31 bags of V-1 Chewing Tobacco worth Rs. 3,72,000/- were found. He submitted that the applicant is neither the owner of the truck nor the owner of the banned articles/substances. He submitted that considering the nature of allegations, Section 328 will not be applicable and that there are no antecedents, qua the applicant. Learned Counsel for the applicant relied on the Judgment of a Division Bench of this Court passed in a group of writ petition, leading Petition being Writ Petition No. 1027 of 2015 in the case of ***Ganesh Pandurang Jadhao & Anr. vs. State of Maharashtra decided on 4th March, 2016***, wherein it was held that Section 328 IPC would not be applicable to such case.

4. Learned A.P.P submits that the applicant is not the cleaner as alleged by the learned Counsel for the applicant. He states that the applicant was present at the spot at the time of the incident. Learned A.P.P

is unable to justify the application of Section 328 to the facts of the present case in the light of the aforesaid judgment relied upon by the learned Counsel for the applicant.

5. Perused the papers. Except Section 328 of the IPC, other Sections that have been applied are bailable. Considering the facts of the case, it is immaterial whether the applicant was a cleaner or not. Accordingly, the application is allowed and the applicant is granted anticipatory bail on the following terms and conditions :

ORDER

(i) The applicant, in the event of his arrest, be enlarged on bail on executing PR Bond in the sum of Rs. 10,000/- with one or two sureties in the like amount;

(ii) The applicant shall report to the Investigating Officer of the concerned Police Station on every Saturday from 10:00 a.m. to 11:00 a.m. till the filing of the

supplementary charge-sheet;

(iii) The applicant shall not tamper or attempt to influence the complainant, witnesses or any person concerned with the case;

(iv) The applicant shall inform his latest place of residence and mobile contact number immediately to the Investigating Officer of the concerned Police Station.

6. The Application is allowed in the aforesaid terms and is accordingly disposed of.

7. 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.

8. All concerned to act on the authenticated copy of this order.

REVATI MOHITE DERE, J.