

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

ANTICIPATORY BAIL APPLICATION NO. 1423 OF 2015

Anil Raghunath Adagale ..Applicant

v/s.

The State of Maharashtra . ..Respondents

**WITH
ANTICIPATORY BAIL APPLICATION NO. 1191 OF 2015**

Nilesh Harakchand Lalwani & Anr. ..Applicants

v/s.

The State of Maharashtra . ..Respondents

**WITH
ANTICIPATORY BAIL APPLICATION NO. 1622 OF 2015**

Abdul Aziz Babu @ Ajjumamu @ Shaikh
& Anr. ..Applicants

v/s.

The State of Maharashtra . ..Respondents

**WITH
ANTICIPATORY BAIL APPLICATION NO. 1745 OF 2015**

Abdul Aziz Babu Mansuri @ Abdul
Aziz Babu @ Aju Mamu @ Sheikh ..Applicant

v/s.

The State of Maharashtra .

..Respondents

**WITH
ANTICIPATORY BAIL APPLICATION NO. 1806 OF 2015**

Sunil Prabhakar Amruntkar

..Applicant

v/s.

The State of Maharashtra .

..Respondents

**WITH
ANTICIPATORY BAIL APPLICATION NO. 1829 OF 2015**

Abdul Aziz Babu Mansuri @ Abdul
Aziz Babu @ Ajju Mamu @ Sheikh

..Applicant

v/s.

The State of Maharashtra .

..Respondents

Mrs. Pranali Kakade for the Applicant in ABA/1423/2015.
Mr.Tushar Sonawane for the Applicant in ABA/1191/2015,
ABA/1622/2015, ABA/1745/2015 and ABA/1829/2015.
Mr. Ashok Mundargi. Sr. Adv. appointed as Amicus Curie.
Mr. S.K.Shinde PP a/w. Mr.S.S. Pednekar, APP for the State.

**CORAM : SMT. ANUJA PRABHUDESSAI, J.
DATED : APRIL 27th , 2016.**

P.C.

1. The applicants in the above applications are seeking pre-arrest bail for the offences punishable under the provisions of IPC and Food

Safety and Standard Act, 2006, the details of which are as under:

- i) The applicant in ABA/1423/2015 is seeking pre-arrest bail in Crime No. 129 of 2015 registered with Samarth Nagar Police Station, Pune for the offences punishable under Sections 328, 179, 188, 273 IPC and under Section 26(2)(i) r/w. 3(i)(zz)(v) of the Food Safety and Standard Act, 2006.
- ii) The applicants in ABA/1191/2015 are seeking pre-arrest bail in Crime No.I-106 of 2015 registered with Raigad Police Station, for the offences punishable under Sections 486, 188, 273 and 328 IPC and under Section 26(2)(i) r/w. 3(i)(zz)(v), 26(2)(iv), 27(3)(d) and 27(3)(e) of the Food Safety and Standard Act, 2006.
- iii) The applicants in ABA/1622/2015 are seeking pre-arrest bail in Crime No. I-94 of 2015 registered with Pawarwadi Police Station, Malegaon, Nasik for the offences punishable under Sections 188, 272, 273 & 328 IPC and under Sections 26(2)(i) r/w. 3(i)(zz)(v), 26(2)(iv), 27(3)(d) and 27(3)(e) of the Food Safety and Standard Act.
- iv) The applicant in ABA/1806/2015 is seeking pre-arrest bail in Crime No.I-91 of 2015 registered with Ayeshnagar Police Station,

Malegaon, Nashik for the offences punishable under Sections 188, 272, 273, 328 of IPC and under Sections 26(2)(i) r/w. 3(i)(zz)(v) and Sec.59 of the Food Safety and Standard Act, 2006.

v) The applicant in ABA/1745/2015 and ABA/1829/2015 is seeking pre-arrest bail in Crime Nos.I-76 of 2015 and I-96 of 2015 registered with Killa Police Station and Pawarwadi Police Station, Malegaon for the offences punishable under Sections 188, 272, 273, 328 of IPC and under Sections 26(2)(i) r/w. 3(i)(zz)(v), 26(2)((iv), 27(3)(d) and 27(3)(e) of the Food Safety and Standard Act, 2006.

2. The applicants herein were found transporting Gutka in contravention of Government notification dated 15.5.2014. Amongst the other sections which are bailable, the applicants were also alleged to have committed offence under Section 328 of IPC.

3. The learned Counsel for the respective applicants and the learned APP for the State and the learned Amicus Curie, were heard at length on the applicability of provisions of Section 328 of IPC.

4. It is now brought to my notice that the issue as regards applicability of Section 328 IPC has already been decided by the

Division Bench of this Court in Writ Petition No.1027 of 2015, wherein it has been held that manufacturing, possession, selling of Gutka and Pan Masala does not constitute offence under Section 328 of IPC. Considering the principles laid down by the Division Bench of this Court in the aforesaid decision, in my considered view, the applicants are entitled for anticipatory bail. Hence the order.

- i) In the event of arrest of the applicant/s in the above mentioned applications, the applicant/s be enlarged on bail on furnishing P.R.Bond in the sum of Rs.25,000/- (Rupees Twenty Five Thousand Only) each with one or two sureties in the like amount to the satisfaction of the Investigating officer, in each of the applications.
- ii) The applicants shall attend the concerned police station, if required for investigation.
- iii) The applicants shall not tamper or attempt to influence the complainant, witnesses or any person concerned with the case.

(ANUJA PRABHUDESSAI, J.)