

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
ANTICIPTORY BAIL APPLICATION NO. 1536 OF 2017**

1. Nadeem Shahabuddin Khan,	
2. Tausif Shahabuddin Khan	...Applicants
Versus	
The Sr. Police Inspector & Anr.	...Respondents

Mr. Mateen Abdul Rahim Shaikh for the Applicants

Ms. J. S. Lohakare, A.P.P for the Respondents-State

CORAM : REVATI MOHITE DERE, J.
FRIDAY, 15th SEPTEMBER, 2017

P.C.

1. Heard learned Counsel for the parties.

2. By this application, the applicants seek pre-arrest bail in connection with C.R. No. I-128 of 2017 registered with the J. J. Marg Police Station, Mumbai, for the alleged offences punishable under Sections 353, 394 r/w 34 of the Indian Penal Code.

3. Learned Counsel for the applicants submitted that the applicants were not present when the Officials of the Food and Drugs

Administration seized the haul of paan masala and scented tobacco. He further submitted that all the articles have been seized. He further submitted that the applicants were not present and therefore, the question of forcibly taking away the seized contraband and interfering with the Government servants in the discharge of official duty, does not arise.

4. Learned A.P.P opposed the bail application. She submitted that the contraband belonged to the applicants. She submitted that it was the applicants and another co-accused, who tried to forcibly take the contraband from the hands of the Officer. She submitted that the applicant No. 1-Nadeem Khan has two antecedents i.e. C.R. No. 78/2016 and 80/2016 for the alleged offences punishable under Sections 328, 188, 273 of the Indian Penal Code.

5. Perused the papers, in particular, the complaint lodged by Amit Kaskar, Officer of the Food and Drug Administration. A perusal of the FIR shows that when the raid was conducted and the contraband was seized, the present applicants and another accused forcibly took the contraband and even pushed the Government Officers and fled from the

said spot. Accordingly, the complainant signalled to the other Officers, who followed the accused and caught hold of one of the persons with the seized contraband. It appears that one of the persons, who was apprehended, was Irfan Yunus Ahmed, who has given his address as “Nadeemcha Gala”. The applicant No. 1 has two antecedents, which are of similar nature. It is informed that the applicants are not cooperating and have not disclosed the source, from where the said articles were purchased/procured.

6. Considering the nature of allegations, custodial interrogation of the applicants is necessary. The application is accordingly rejected.

7. It is made clear that the observations made herein are *prima facie*, for the purpose of deciding this application and if an application for regular bail is filed, the same shall be decided on its own merits, uninfluenced by the observations made in this order.

REVATI MOHITE DERE, J.