

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

ANTICIPATORY BAIL APPLICATION NO.34 OF 2019

Jafar Yusuf Shete

.... Applicant

versus

The State of Maharashtra

.... Respondent

.....

- Mr.Ujwal R. Agandsurve, Advocate for Applicant.
- Mr.S.R. Agarkar, APP for the State/Respondent.
- API Shitalkumar Kolhal, MIDC Police Station, Solapur, present.

CORAM : SARANG V. KOTWAL, J.
DATE : 19th JUNE, 2019

P.C. :

1. The Applicant is seeking anticipatory bail in connection with C.R.No.778/18 registered with MIDC Police Station, Solapur, under sections 188, 272, 273, 328 of the Indian Penal Code and under sections 26(2)(i), 26(2)(ii), 26(2)(iv) r/w section 27(3) (E), 30(2)(A), Rules 3, 1, 7 of the Food and Drugs Act.
2. The FIR is lodged by Food Safety Officer Nasrin Tanvir

Mujawar. She was informed by the police that on 02/12/2018 at about 11.00 a.m. they had intercepted a vehicle bearing MH-14-DM-4195 and had seized that vehicle. The investigating agency intercepted the vehicle and found out that there were 14 packets of prohibited substances consisting of Gutkha, Panmasala and scented Tobacco etc. All these substances were banned because of notification issued by the Commissioner under the provisions of the Food Safety and Standards Act. The driver of the vehicle was immediately arrested.

3. Further investigation and interrogation of the said driver Imtiyaz Lalsab Sayyed revealed that the present Applicant was the owner of the seized articles and therefore he was also arraigned as an accused.
4. Heard learned Counsel Mr.Ujwal R. Agandsurve for the Applicant and learned APP Mr.S.R. Agarkar for the State.
5. Learned Counsel Mr. Agandsurve submitted that the offence

u/s 328 is not made out and that the notification under Food Safety and Standards At, is not issued in accordance with law.

6. The Division Bench of this Court at Aurangabad Bench, in Criminal Application No.4353 of 2016 vide order dated 29/11/2018 has already taken a view that in such cases section 328 of IPC is attracted. The detail discussion in that judgment is clearly applicable to the facts of this case. In this view of the matter, no case for anticipatory bail is made out. The custodial interrogation of the Applicant is necessary as to find out from where they had procured the substances and in respect of the similar cases. There is no merit in the application. Hence the application is dismissed.

(SARANG V. KOTWAL, J.)