

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

ANTICIPATORY BAIL APPLICATION NO.836 OF 2019

Rashid Md Yusuf Shete

.... Applicant

versus

The State of Maharashtra

.... Respondent

.....

- Mr.Veerdhaval Kakade, Advocate for Applicant.
- Ms.A.A. Takalkar, 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.138/19 registered with Sadar Bazar Police Station, Solapur, under sections 188, 272, 273, 328 r/w 34 of the Indian Penal Code.
2. The FIR is lodged by Food Safety Officer Nasrin Tanvir Mujawar. She was informed by the police that on 18/02/2018 at about 06.15 p.m. they had intercepted a vehicle bearing MH-13-AX-1101 and had seized that vehicle. The investigating agency

intercepted the vehicle and found out that there were 2 bags (containing 66 packets each) of prohibited substances i.e. Gutkha. 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 Jayraj @ Raju Shivmurt Gadgi, 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.Veerdhaval Kakade for the Applicant and learned APP Ms.A.A. Takalkar for the State.
5. Learned Counsel Mr.Kakade 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. He further submitted that unless and until the chemical analysis

report is received, no offence as alleged can be said to have been taken place. This contention cannot be accepted at this stage because prima facie, the Food Safety Officer has lodged the FIR mentioning that all these banned substances were seized in the offence. The description of the banned articles is clear enough.

6. The Division Bench of this Court at Aurangabad Bench, in the case of *Vasim s/o. Jamil Shaikh Vs. The State of Maharashtra & Anr. 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 these substances. There is no merit in the application. Hence the application is dismissed.

(SARANG V. KOTWAL, J.)