

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
NAGPUR BENCH : NAGPUR

CRIMINAL APPLICATION (ABA) NO. 443 OF 2019

(Dilip s/o Bhagchand Jethani vs. State of Maharashtra Through PSO, P.S. Balapur, Tq. Balapur,
 Dist. Akola)

 Office Notes, Office Memoranda of Coram,
 appearances, Court's orders of directions
 and Registrar's orders

Court's or Judge's orders

 Shri. S. A. Mohta, Advocate for the applicant.
 Shri. N. R. Rode, APP for non-applicant State

CORAM : Manish Pitale J

DATED : July 31, 2019

The applicant has approached this Court seeking anticipatory bail in connection with First Information Report (FIR) dated 17.06.2019 registered against him and another accused person for offences under Sections 188, 272, 273, 328 read with 34 of the Indian Penal Code and Section 59(i) of Food Safety and Standard Act, 2006.

(2) The name of the applicant has cropped up because it was divulged by a person driving a vehicle in which large amount of chewing tobacco and *pan masala* was found, which is banned in the State of Maharashtra. On this basis, the said driver and the accused person have been named in the present FIR.

(3) While issuing notice and granting ad-interim protection by order dated 08.07.2019 this Court has observed as follows :-

“4. The applicant herein is apprehending arrest in connection with FIR dated 17.06.2019 registered against him and another accused person for offences under Sections 188, 272, 273, 328 read with 34 of the IPC and certain provisions of the Food Safety and Standard Act, 2006.

5. *The allegation against the applicant is based on the statement made by the co-accused who was driving a vehicle in which chewing tobacco and Pan Masala in a large quantity was found. The said material is banned in the State of Maharashtra and, therefore, the said FIR was registered for the alleged offences. It is the case of the applicant that only on the statement of the co-accused, who was driving the vehicle, that the contraband material was to be delivered to the applicant, that he has been implicated in the present case. It is submitted that that the applicant is ready to cooperate with the investigation and his custodial interrogation is not required, particularly when the contraband material has been already recovered.*
6. *In view of the above, a case for grant of ad-interim protection is made out.*
7. *Hence, in the event the applicant is arrested in Crime No. 236 of 2019, registered in Police Station Balapur, district Akola, he shall be released on bail on furnishing P.R. bond of Rs.25,000/- (Rs. Twenty Five Thousand) and a surety in the like amount. The applicant shall attend Police Station Balapur, district Akola, once in a week i.e. on Sunday between 10 a.m. and 5 p.m., during the pendency of this application. The applicant shall not tamper with the evidence or influence the witnesses.”*

(4) In response to the notice issued by this Court, the learned APP has placed on record reply on behalf of the non-applicant State, opposing the grant of relief in the present application, pointing out that the contraband material recovered in the present case amounted to Rs.17,53,880/-. It is further pointed out that the samples from the said material have been sent for chemical analysis.

(5) In the reply, there are no criminal antecedents of the applicant placed on record. There is also no complaint that the applicant has not abided by the conditions imposed in order dated 08.07.2019 while granting ad-interim protection.

(6) It is also pointed out by the learned counsel for the applicant that an application under Section 482 of Cr.P.C. has been preferred by the applicant for quashing of the FIR, wherein Division Bench of this Court has issued notice and directed that while the investigation could go on, charge-sheet should not be filed without the leave of the Court.

(7) In these circumstances, this Court is of the opinion that the applicant has made out a case for grant of anticipatory bail. Accordingly, the present application is allowed and the ad-interim protection granted to the applicant by order dated 08.07.2019 is confirmed, with a modification that the applicant shall now be required to attend police station, Balapur District Akola, twice a month i.e. on second and fourth Sunday between 10.00 a.m. and 5.00 p.m.

(8) Needless to say that the applicant shall continue to co-operate with the investigation. The application is allowed in the above terms

JUDGE

halwai