

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

Criminal Application (BA) No.669 of 2019
(Imran Khan s/o Raheman Khan .vs. State of Maharashtra through PSO PS
Pinjar, Dist. Akola)

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

Mr. A.K. Bhangde, Advocate for Applicant
Mr. J.Y. Ghurde, APP for Non-applicant/State.

CORAM : Manish Pitale, J.
DATED : August 02, 2019.

The applicant has approached this Court as he stood arrested in connection with first information report (FIR) dated 27.06.2019 for offences under Sections 188, 272 and 328 of the Indian Penal Code, as also the provisions of the Food Safety and Standards Act, 2006.

2. The learned counsel for the applicant points out that except Section 328 of the IPC, all other offences in the present case are bailable. The allegation against the applicant is that, on secret information, the vehicle in which he was travelling, was intercepted and it was found that banned substance worth about Rs.22,840/- was recovered from the possession of the applicant.

3. It is pointed out that on the basis of the allegations that are made against the applicant, the ingredients of the offence under Section 328 of the IPC are not made out. The said provision pertains to causing hurt by means of poisonous substance with intent to commit an offence. It is submitted that even if the allegation against the applicant was to be accepted

for the sake of arguments, the said offence was certainly not made out.

4. The learned APP has opposed grant of bail, contending that the investigation was still underway and that the applicant had been caught raid-handed in possession of banned substance i.e. *Gutkha*.

5. Having heard the learned counsel for the parties, a perusal of Section 328 of the IPC shows that a person would be liable under the said provision if he administers or causes any person to take any poison or stupefying or intoxicating substance. It appears that at present the material on record may not be enough to invoke the said provision against the applicant, although there appears to be violation of the provisions of the Food Safety and Standards Act, 2006. The applicant has been behind bars for more than a month now and in these circumstances, this Court is of the opinion that present application can be allowed on certain conditions.

6. Accordingly, the present application is allowed and the applicant is directed to be released on bail in Crime No. 122 of 2019 registered in Police Station Pinjar, tahsil Barshitakli, district Akola, on the following conditions:-

a) The applicant shall furnish P.R. Bond of Rs.25,000/- (Rs. Twenty Five Thousand) and a surety in the like amount.

b) The applicant shall attend the aforesaid Police Station twice a month i.e. on second and fourth Sunday of each month between 10 a.m. and 5 p.m. till filing of the charge-sheet.

- c) The applicant shall attend the proceedings before the trial Court on each and every date.
- d) The applicant shall not tamper with the evidence or influence witnesses and he shall cooperate with the investigation.

7. Hamdast granted.

JUDGE

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