

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
ANTICIPATORY BAIL APPLICATION NO.1756 OF 2021**

Bharat Shivappa Kothawale .. Applicant

Vs.

The State of Maharashtra .. Respondent

**ALONG WITH
ANTICIPATORY BAIL APPLICATION NO.1757 OF 2021**

Daryappa Sharanappa Jakapure .. Applicant

Vs.

The State of Maharashtra .. Respondent

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Mr. Deepak Thakre with Mr. Gopal N. Parab for the Applicant.

Ms. Rutuja Ambekar, A.P.P. for the State.

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CORAM : SMT. BHARATI DANGRE, J.

DATED : 11TH AUGUST, 2021.

P.C:-

1. The two Applications are preferred by the Applicants, who are arraigned as accused in C.R. No.103 of 2021 invoking

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Sections 328, 272, 273, 188 read with Section 34 of the IPC and Sections 59 of the Food Safety and Standards Act. The two Applicants are subsequently arraigned as Accused Nos.3 and 4 pursuant to the remand of the three accused persons.

2. The complaint came to be lodged by the Complainant one Yogesh Deshmukh, the Food and Safety Officer, who states that the North Solapur falls within his jurisdiction and a surprise check was carried out when three shops were found to have been selling the prohibited substance, which included Gutka, Paanmasala, Rajnigandha Paanmasala, etc. Three persons, who were running the shops/pan kiosks have stored the said prohibited substance for themselves and, when it was searched, the panchanama reveals that from the shop of Accused No.1 viz. Durga Paan Shop, goods worth Rs.740/- were seized; from the shop of Accused No.2 viz. Swami Colddrinks and Paan Shop, goods worth Rs.6720 were seized and from the shop of Accused No.3 viz. Siddheshwar Paan Shop, goods worth Rs.2785/- were seized. The two Applicants are indicted on the statements of the aforesaid three persons, who in the remand report are alleged to have stated that the two Applicants supplied the said prohibited substances to them, which in turn, were sold by them to the consumers.

3. It is informed that Accused Nos.1 to 3 are released on bail.

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4. When learned A.P.P. was asked to ascertain the antecedents of the Applicants, learned A.P.P. states that the Applicant - Bharat Kothawale does not have any criminal background whereas, Applicant - Daryappa Jakapure have four offences registered against him. The chart produced by learned A.P.P. itself shows that in two offences registered in the year 2014, he has been acquitted. The other offences, which are registered in the year 2020 and 2021 invoking similar provisions of Sections 328, 272, 273, 288, 34 of the IPC and relevant provisions of the Food Safety & Standards Act.

5. Since the nature of accusations levelled does not warrant any custodial interrogation and the goods seized are of a minuscule amount being Rs.10,245/- and since the prosecution, at this stage, is not armed with any material barring the statement of co-accused, the Applicants are entitled to be released in anticipation of their arrest, subject to the stipulation that they will render their co-operation to the Investigating Officer. Hence the following order:

: ORDER :

- (a) In the event of arrest, the Applicants – (1) Bharat Shivappa Kothawale and (2) Daryappa Sharanappa Jakapure, shall be released on bail in

C.R. No.103 of 2021 registered with Jodbhavi Peth Police Station, District Solapur, on executing P.R. bond to the extent of Rs.25,000/- each and furnishing one or two sureties of the like amount.

- (b) The Applicants shall not directly or indirectly make any inducement, threat or promise to any person acquainted with facts of case and shall not tamper with prosecution evidence.
- (c) The Applicants shall report to the Jodbhavi Peth Police Station, Dist. Solapur, on every Monday and Thursday between 10.00 a.m. and 01.00 p.m. for four weeks and, thereafter, as and when called by the Investigating Officer.

6. The Application is allowed in the aforestated terms.

7. All parties are directed to act on the downloaded copy of the order supplied by the Advocate under his seal and signature.

[SMT. BHARATI DANGRE, J.]