

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

CRIMINAL BAIL APPLICATION NO.3281 OF 2021

1. Sheru Nawab Pathan
 2. Mohammad Asif Abdul Jabbar Kachliya ...Applicants
- Versus
- State of Maharashtra ...Respondent

Mr. Tushar Sonawane, for the Applicants.

Ms. P. P. Shinde, A.P.P for the Respondent – State.

CORAM : REVATI MOHITE DERE, J.

DATE : 30th SEPTEMBER 2021

(THROUGH VIDEO CONFERENCING)

P.C. :

1. Heard learned counsel for the parties.
2. By this application, the applicants seek their enlargement on bail in connection with C.R. No. 1094 of 2021 registered with the Sangola Police Station, Solapur (Rural), for the alleged offence punishable under Sections 188, 272, 273, 328 of the Indian Penal Code and under Section 59 of the Food Safety and Standards Act, 2006.
3. Perused the papers. According to the complainant – Umesh Bhuse, a Food and Safety Officer, he received a confidential information

with respect to one vehicle carrying prohibited material i.e. gutka, pan masala, tobacco etc. Accordingly, on 1st September 2021, one vehicle i.e. Ashok Leyland Truck bearing No.MH-20 EL-5849 was intercepted. The applicant No.1 was the driver and owner on the said vehicle and the applicant No.2 was accompanying the applicant No.1. It was found that the applicants were carrying prohibited material in the said vehicle i.e. Hira Pan Masala valued at Rs.4,29,002/- and Royal 717 Scented Tobacco valued at Rs.2,31,003/-. Accordingly, the said articles were seized by the police and the aforesaid C.R. was registered.

4. Learned Counsel for the applicants submits that *prima facie*, taking the case as it stands, no offence as alleged under Section 328 of the I.P.C is disclosed *qua* the applicants. He submits that as far as the other sections are concerned, all the sections are bailable.

5. It appears that the applicants were transporting the said prohibited material/articles. Whether or not the offence under Section 328 of the I.P.C. is made out or not, is a matter which will be decided by the trial Court. The statement of the learned counsel for the applicants that the applicants have no antecedents is accepted. The applicants are in custody since 2nd September 2021.

6. Considering the aforesaid in the facts, further detention of the applicants is not warranted. Accordingly, the application is allowed and the applicants are enlarged on bail, on the following terms and conditions:-

ORDER

- (i) The applicants be enlarged on bail, on executing PR Bond in the sum of Rs. 25,000/- each with one or two local sureties in the like amount;
- (ii) The applicants shall attend the concerned Police Station on every Saturday, between 10.00 a.m. and 12.00 noon, till filing of the charge-sheet;
- (iii) The applicants shall not tamper with the evidence or attempt to influence or contact the complainant, witnesses or any person concerned with the case;
- (iv) The applicants shall inform their latest place of residence and mobile contact number immediately after being released and/or change of residence or mobile details, if any, from time to time to the Court seized of the matter and to the Investigating Officer of the concerned Police Station;

(v) The applicants to cooperate with the conduct of the trial and attend the trial Court on all dates, unless exempted;

(vi) If there is a breach of any of the aforesaid conditions, the prosecution shall be at liberty to seek cancellation of the applicants bail.

7. The application is allowed in the aforesaid terms and is accordingly disposed of.

8. It is made clear that the observations made herein are *prima facie*, and the trial Court shall decide the case on its own merits, in accordance with law, uninfluenced by the observations made in this order.

9. All concerned to act on the authenticated copy of this order.

REVATI MOHITE DERE, J.