

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD**

914 ANTICIPATORY BAIL APPLICATION NO.886 OF 2022

RAMDAS NIVRUTTI CHINTALWAR
VERSUS
THE STATE OF MAHARASHTRA

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Advocate for Applicant : Mr. S.R. Bagal h/for Mr. Bharat N.
Gadegaonkar

APP for Respondent State: Mrs. V. S. Chaudhari

CORAM : S. G. MEHARE, J.

DATE : 3rd AUGUST, 2022

ORDER:

1. Heard learned counsel for the applicant and learned APP for the State.
2. It has been alleged against the applicant that he is the supplier and stockist of a contraband which has been prohibited under the Circular dated 15th July, 2021 issued by the Commissioner, Food and Drugs Department, Maharashtra. The Investigating Officer has searched the house of the applicant and recovered the contraband worth Rs.65,400/-.
3. Learned counsel for the applicant submits that section 328 of the Indian Penal Code (IPC) would not attract. He has vehemently submitted that there are contrary judgments on the applicability of Section 328 IPC the Indian Penal Code of this Court. However, with regard to the applicability of section 328 IPC, the matter is pending before the Apex Court. The Hon'ble Apex Court has granted interim protection to all those whose anticipatory bail has been rejected. He has also placed on record orders passed by the Hon'ble Supreme Court in various cases. He has also argued that except section 328 IPC, the other

sections applied are bailable. As the contraband has been recovered, custodial interrogation of the applicant is not necessary.

4. Learned APP has argued that there are antecedents to the discredit of the applicant. The applicant involved repeatedly in committing similar offence. The police wants the custody of the applicant to know about the stock he has stored. He has also argued that when search of the house of the applicant was taken, he has fled away.

5. Considering the fact of the case that the police has already taken search of the house of the applicant and seized the contraband, the prosecution has no good ground for police custody of the applicant. The Police may take search of the property of the applicant, if they get an information about the stock of contraband. Therefore, the applicant is entitled to the anticipatory bail. Hence the following order.

O R D E R

- (i) The application is allowed.
- (ii) In the event of arrest, the applicant Ramdas Nivrutti Chintalwar be released on bail on executing P. R. and S.B. of Rs.40,000/- with one solvent surety of the like amount in connection with Crime No. 214 of 2022 registered with Chakur Police Station, District Latur for the offences punishable under sections 188, 272, 328 read with 34 of the Indian Penal Code and under section 59 of the Food Safety and Standards Act, on the condition that the applicant shall attend the police station as and when called by the Investigating officer.

(S. G. MEHARE, J.)