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

ANTICIPATORY BAIL APPLICATION NO.1028 OF 2022

MOHAMMAD FAHIM MOHD. IBRAHIM AND ANOTHER
VERSUS
THE STATE OF MAHARASHTRA

Mr. S. S. Dargad, Advocate for applicants;
Mr V. M. Kagne, A.P.P. for respondent/State

CORAM : S. G. MEHARE, J.

DATE : 26th August, 2022

PC.

1. Heard the learned counsel for the applicants and the learned A.P.P. for the respondent/State.
2. The applicants have been booked for the offence punishable under Sections 328, 272, 273, 188 of the Indian Penal Code and Sections 26(2)(iv), 27(2)(e), 30(2)(a) and 59 of the Food Safety and Standards Act, 2006.
3. The learned counsel for the applicants has vehemently argued that there is no direct evidence against the applicants that they were involved in the illegal supply of Gutka. Gutka is not harmful to the life except the surmises of the officers from the Food Safety Department. There are no elements to attract Section 328 of the

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Indian Penal Code in the present case. Therefore, the anticipatory bail may be granted to the applicants.

4. The learned A.P.P. has strongly opposed the application contending that the applicants were the suppliers of Gutka. The offence is serious. There are two views as regards applicability of Section 328 of the Indian Penal Code and the said issue is seized with the Honourable Supreme Court.

5. The allegations against the applicants have been made that the co-accused told the Investigating Officer that the applicants had supplied Gutka to him. In fact, there is no direct evidence against the applicants. Considering the allegations levelled against the applicants and the role played by them, they are entitled for anticipatory bail. Hence, the following order :-

- i) The application is allowed.
- ii) The interim protection granted to the applicants by order dated 12.08.2022 is confirmed on the same terms and conditions, with additional condition to attend the police station on 29th, 30th and 31st August 2022, between 11.00 a.m. and 1.00 p.m.

(S. G. MEHARE, J.)

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