

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

ANTICIPATORY BAIL APPLICATION NO.1224 OF 2022

VIJAYKUMAR DHONDIRAM TAPDIYA
VERSUS
THE STATE OF MAHARASHTRA

...
Advocate for Applicant : Mr. Bharat N. Gadegaonkar
APP for Respondent : Ms. V. S. Choudhari
...

CORAM : S. G. MEHARE, J.

DATE : 29-09-2022

PER COURT :-

1. Heard the learned counsel for the applicant and the learned APP for the respondent/State.
2. The learned counsel for the applicant has vehemently argued that one of the co-accused has told the name of the applicant. It has been alleged against the applicant that he is the supplier of Gutka. Since Section 328 of the Indian Penal Code would not attract in the cases of Gutka, his police custody would serve no purpose. Hence, he may be protected.
3. The learned A.P.P. has pointed out that earlier the applicant approached this Court by Anticipatory Bail Application No. 1233 of 2021. However, the then Bench expressed disinclination to grant the protection, the applicant withdrew his application. The then

Bench has discussed the law in detail and concluded that in Gutka case, Section 328 of the IPC would attract. Therefore, the applicant again approached the learned Sessions Court, the learned Sessions Court again reject his bail application.

4. Considering the facts, a small question here in case is, whether present application would be entertained when the applicant withdrew his earlier bail application, when the court expressed disinclination to grant the protection. The Court is of the view that once he has withdrawn the application, as the Court expressed disinclination, he can not approach the Court for bail again unless there are change in circumstances. There is no change in the circumstances; hence, for this sole reason, the application stands dismissed.

**(S. G. MEHARE)
JUDGE**

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