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IN THE HIGH COURT OF JUDICATURE OF BOMBAY
BENCH AT AURANGABAD

ANTICIPATORY BAIL APPLICATION NO.1449 OF 2022

Santosh Ramsundar Rai and Another APPLICANTS

VERSUS

The State of Maharashtra and Another RESPONDENTS

.....
Mr. N. L. Choudhari, Advocate for the applicants
Mr. V. S. Badakh, APP for respondent - State
.....

[CORAM : NITIN B. SURYAWANSHI, J.]

DATE : 24th NOVEMBER, 2022

ORDER :

1. The applicants apprehend their arrest in connection with Crime No. 423 of 2022 registered with Akkalkuva police station, District – Nandurbar for the offence punishable under section 30 (2) (A), 26 (2) (I), 27 (3) (E), 26 (2) (IV) and 59 of the Food Safety and Standards Act and under section 188, 272, 273 and 328 of the Indian Penal Code.

2. The FIR is lodged by Food Safety Officer alleging that on receipt of secret information, truck No.MH-40/N2727 was intercepted and it was found that scented tobacco, which is banned in the State of Maharashtra, was being transported along with household articles. Driver of the Truck was arrested. He

disclosed that the scented tobacco and the household articles were loaded in the Truck at Ahmedabad (Gujrat) and the Truck was being taken to Nagpur. Accordingly, offence is registered.

3. The applicants claim to be doing transport business and at their shop the household articles were loaded in the said Truck. According to them, they have no concern with the contraband articles, seized by the police authorities.

4. Heard learned advocate for the applicants and the learned Additional Public Prosecutor. Perused the papers of investigation.

5. The investigation papers reveal that the Truck, along with household articles, was released and employee of the applicants Pritu Arvind Singh has taken custody of the said Truck along with the household articles. The investigation appears to be almost complete. Custodial detention and /or interrogation of the applicants, in the facts of the present case, does not appear necessary.

6. Except section 328 of the Indian Penal Code, all the other offences are bailable. The issue of applicability of section 328 of the Indian Penal Code in similar cases is subjudice before the Hon'ble Apex Court in "*Nipul Nagde V/s State of Maharashtra*" (*Petition for Special Leave to Appeal (Cri) NO. 6788 of 2021*),

wherein interim protection is granted to the applicant therein.

7. In that view of the matter also the application deserves to be allowed. The application is, therefore, allowed, by confirming interim order dated 21st October, 2022. Till filing of the charge sheet, the applicants shall attend the concerned police station as and when called by the Investigating Officer. The applicants shall not indulge in similar offence and shall not tamper prosecution evidence.

[NITIN B. SURYAWANSHI]
JUDGE

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