

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

CRIMINAL BAIL APPLICATION NO. 584 OF 2022

Tukaram Hanumant Vaske	..Applicant
V/s.	
The State of Maharashtra	..Respondent

Mr. Rajesh More for the Applicant.
Mr. S.R. Agarkar, APP for the Respondent/State.
P.N. D.B. Shelke, Tembhurni Police Station present.

CORAM : C.V. BHADANG, J.

DATE : 18 FEBRUARY 2022

P.C.

1. This is an application for bail. The Applicant along with co-accused is facing prosecution arising out of Crime No. 46 of 2022 registered with Tembhurni Police Station, Dist. Solapur for the offence punishable under Section 188, 272, 273, 328 read with Section 34 of I.P.C. and Section 59 of the Food Safety and Standards Act, 2006.

2. The Applicant is arrested on 18.01.2020. The Applicant was a driver on a Ishar Tempo bearing MH-13-CU-2602. On 18.01.2020, the said tempo was found parked near Hindustan Petroleum Pump on Pune-Tembhurni road. A search of the said

vehicle was taken on prior information and it was found carrying contraband Gutkha worth Rs.42,50,000/-, which is banned in the State of Maharashtra for a period of one year w.e.f. 15.07.2021.

3. It is also submitted that except Section 328 of IPC, all other sections are bailable in nature. It is pointed out that the issue about applicability of Section 328 of IPC in such a case is subject matter of consideration before the Supreme court in a batch of petitions in which the Supreme Court has granted interim protection.

4. The learned APP has submitted that the seizure of Gutkha is made from the truck which was being driven by the Applicant and thus, the Applicant was found to be in conscious possession of the said articles.

5. I have considered the circumstances and the submissions made. Prima facie it appears that only non-bailable offence is under Section 328 of IPC. The issue about the applicability of Section 328 in which a case is subject matter of consideration before the Supreme Court.

6. Considering the over all circumstances, the following order is passed:

ORDER

- i) The Applicant be released on bail on executing a PR Bond in the sum of Rs.25,000/- with one or two solvent sureties in the like amount.
- ii) The Applicant shall furnish his permanent native address along with proof before the Investigating Officer.
- iii) The Applicant shall report to the Investigating Officer once in every month on first Monday between 11.00 a.m. to 1.00 p.m.
- iv) The Applicant shall not directly or indirectly tamper with the prosecution evidence/witnesses.
- v) Bail bonds to be furnished before the learned Sessions Court.
- vi) The Criminal application is disposed of accordingly.

(C.V. BHADANG, J.)