

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

ANTICIPATORY BAIL APPLICATION NO. 3056 OF 2021

Balram Shankar Bandaram & Anr.	...Applicants
Versus	
State of Maharashtra	...Respondent

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Mr. Rahul Vijaymane for the Applicants.
Ms. M. M. Deshmukh, APP for the State.

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CORAM : N.R. BORKAR, J.
DATED : 20th OCTOBER, 2022.

P.C. :-

1. This is an application filed under Section 438 of the Code of Criminal Procedure, 1973 for anticipatory bail.
2. The applicants are apprehending their arrest in Crime No.541 of 2021 registered at Jail Road Police Station, Solapur for the offences punishable under Sections 328, 272, 273 of the Indian Penal Code and under Sections 3(1)(a), 3(1)(zz), 26(1), 26(2), 26(2)(i), 26(2)(a), 26(2)(v), 27(3)(e) and 59 of the Food Safety and Standard Act, 2006.
3. Pursuant to secrete information, a raid was conducted by the complainant – a Food Safety Officer at the shop of applicant No.1

and 180 bottles of Fruit Beers were found. A sample was taken and it was sent for chemical analysis. In the chemical analysis, the said beer was found to be unfit for consumption. According to the report of Analyst, Coliform Count cfu/ml, Max was found to be more than 1100 cfu/ml, whereas as per the prescribed standard, it should have been 'Nil'. Similarly, Yeast cfu/ml, Max was found to be 64 cfu/ml whereas as per the prescribed standards, it should have been 'Nil'. Even total Plate Count cfu/ml, Max was found to be 200 cfu/ml and as per the prescribed standard, it should have been less than 10 cfu/ml. According to the prosecution, Yeast was deliberately mixed in the said Fruit Beer, which is injuries to health. According to the prosecution, the applicant no.2 is the manufacturer of the said product.

4. I have heard the learned Counsel for the applicants and the learned APP for the State.

5. The learned counsel for the applicants submits that the name of applicant no.2 is not mentioned in the FIR. It is further submitted that nothing is to be recovered at the instance of the applicants and therefore, there is no need of custodial interrogation of the applicants. It is further submitted that in the facts and circumstances of the case, Section 328 of the IPC would not be applicable. It is submitted that the applicants are ready to co-

operate in the investigation and therefore, they may be released on anticipatory bail.

6. I have perused the report of the Food Analyst, State Public Health Laboratory, Pune – I, who conducted the analysis of the seized samples. According to the report, ‘Coliform’ count should have been ‘Nil’ whereas in the seized sample it was found to be 1100 cfu/ml. Similarly, ‘Yeast’ count should have been ‘Nil’ whereas it was found to be 64 cfu/ml. Even the total Plate Count was found to be 200 cfu/ml whereas as per the prescribed standard, it should have been 10 cfu/ml. The opinion of the Analyst reads thus:-

“Opinion:- I am of the opinion that the Sample of Beer bearing Code No. SUR/DO-41 and Serial No.003161;

1) Does not conform to the standards of beer, Rules & Regulations as per the Food Safety & Standards (alcoholic Beverages) Regulations, 2018 and unsafe as per section 3zz(iii) of FOOD SAFETY AND STANDARDS ACT, 2006 on the basis of tests performed.”

7. Considering the nature of the offence, I am not inclined to release the applicants on anticipatory bail. Hence, the Anticipatory Bail Application is rejected.

(N.R. BORKAR, J.)