

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

CRI. ANTICIPATORY BAIL APPLICATION NO. 2224 OF 2021

Chandrakant @ Bunty Vishwanath Jagdale ..Applicant

Vs.

The State of Maharashtra ..Respondent

Mr. Amol Jagtap i/b. Mr. Suyog Y. Torpe, for the Applicant.

Mr. R. M. Pethe, APP for the Respondent / State.

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CORAM : C.V. BHADANG, J.
DATE : 20 JANUARY 2022
(Through Video Conferencing)

P.C.

. By this Application, the Applicant is seeking anticipatory bail in connection with investigation of Crime No.438/2021 of Police Station Bhosari, Pimpri Chinchwad under Section 328, 272, 273, 188 r/w. 34 of IPC.

2. I have heard the learned counsel for the Applicant and the learned APP for the Respondent / State. Perused record.

3. The FIR shows that on a prior intimation, the contraband which is *Gutkha* was recovered from the co-accused Parshuram

Dhepe. On an interrogation being made as to the source of said contraband, the said co-accused Parshuram Dhepe showed one House No.65, Shivganesh Nagar, Gulve Vasahat, Bhosari, Pune, stating that said house is belonging to the present Applicant who is supplier of the Gutkha. Accordingly, a search was conducted at the aforesaid house in the presence of panchas from where again Gutkha worth Rs.59,680/- was allegedly recovered.

4. The learned counsel for the Applicant has submitted that the said house namely House No.65, Shivganesh Nagar, Gulve Vasahat, Bhosari, Pune does not belong to the Applicant. He submitted that the Applicant was also not present when the search of the said house was made. The learned counsel has pointed out that the Aadhar Card of the Applicant in which the residential address of the Applicant is shown as S.No.18, Dhawade Vasti, Near Siddheshwar Mandir, Pune City, Pune. It is submitted that Section 328 of IPC is not attracted in this case.

5. A specific query was made to the learned APP as to whether there is any documentary evidence collected during the course of investigation to show that the house from where the contraband Gutkha was recovered was belonging to, or was in possession of the Applicant. Learned APP after taking instructions from the Investigating Officer stated that there is no such documentary

evidence collected. If that be so, neither there is any documentary evidence to connect the Applicant to the said house nor the Applicant was present when the search was made. In such circumstances, it is not necessary to go into the question whether Section 328 of IPC is attracted in this case or not. Accused No.1 has been released on regular bail. In the result, the following order is passed.

ORDER

1. In the event of his arrest in connection with investigation of Crime No.438/2021 of Police Station Bhosari, Pune, the Applicant be released on bail on executing a P.R. Bond in the sum of Rs.25,000/- with one or two solvent sureties in the like amount.
2. The Applicant shall report to Investigating Officer on 7/2/2022 and 8/2/2022 between 11.00 a.m. to 1.00 p.m. and as and when directed by the Investigating Officer.
3. The Applicant shall co-operate with the Investigating Agency and shall not tamper with the prosecution evidence / witnesses.
4. The Criminal Application is disposed of, in the aforesaid terms.

C.V. BHADANG, J.