

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
ANTICIPATORY BAIL APPLICATION NO.2445 OF 2022**

Sharif Ahmed Shafiq Ahmed Alvi .. Applicant
Versus
The State of Maharashtra .. Respondent
...

Mr. Kunal Bilaney i/b Kushal More for the applicant.
Mr.S.H. Yadav, APP for the State.

**CORAM: BHARATI DANGRE, J.
DATED : 6th SEPTEMBER, 2022**

P.C:-

1 The applicant is seeking protection from arrest in C.R.No.I-0303/2022 registered with Mumbra police station which invoke offence punishable u/s. 188, 328, 273, 179 of the IPC and Section 59 of the The Food Safety and Standards Act, 2006.

2 The learned counsel for the applicant would submit that he was not arraigned as an accused, but on the statement made by the arrested accused, who allege that the prohibited substance which was seized, was purchased from the present applicant, he is shown as an accused and he apprehend his arrest.

3 The learned counsel has invited my attention to an order passed in case of co-accused Mohd.Irshad Mohd. Isaq Shaikh, who is attributed a similar role by the co-accused in the remand proceedings, when some prohibited substance was found to be stored in the premises of Global Park Society, A-1 Fuqran A wing, 13A/701, the co-accused Mohd. Ansari was found to be in possession of the premises and was placed under arrest.

4 Taking note of the legal position revolving around Section 328 IPC as interpreted by the Hon'ble Apex court in case of Joseph vs. State of Kerala, 1994(6) SCC 535, as well as the decision of the Bombay High Court, since it was held that essential ingredients of Section 328 are not made out, the accused was held entitled for being released on bail in the event of arrest.

5 There is no reason why the same order shall not govern the case of the present applicant, since barring Section 328 IPC, all other offences are bailable. Hence, the following order :-

ORDER

- (a) In the event of his arrest, the Applicant - Sharif Ahmed Shafiq Ahmed Alvi in connection of C.R.No.0303/2022 registered with Mumbra police station shall be released on bail on furnishing P.R. bond to the extent of Rs.25,000/- with one or two sureties of the like amount.

- (b) The applicant shall not directly or indirectly make any inducement, threat or promise to any person acquainted with facts of case so as to dissuade him from disclosing the facts to Court or any Police Officer and should not tamper with evidence.
- (c) The Applicant shall report to the Investigating Officer on 19th and 20th September 2022 and thereafter as and when required.
- (d) The applicant shall furnish his current residential address and mobile number to the Investigating Officer.

4. The Application is allowed in the aforestated terms.

(SMT. BHARATI DANGRE, J.)