

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
ANTICIPATORY BAIL APPLICATION NO. 2835 OF 2022

Shaikh Israr Ahmad Niyaz Ahmad ... Applicant

Versus

State of Maharashtra through
Wada Police Station, Palghar ... Respondent

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Mr. Tushar Sonawane for the Applicant.
Ms. P.P. Shinde, APP for the State.
Mr. Santosh Wakchaure, PSI, Wada Police Station, present.

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CORAM : N.R. BORKAR, J.

DATED : 13 OCTOBER 2022

P.C. :-

. This is an application under Section 438 of the Code of Criminal Procedure, 1973 for anticipatory bail.

2. The applicant is apprehending his arrest in Crime No.265 of 2022 registered at Wada Police Station, Palghar for the offence punishable under Sections 188, 272, 273, 328 r/w. 34 of Indian Penal Code and Sections 23, 26(2), 26(2)(iv), 27 and 30(2)(a) of Food Safety and Standards Act, 2006.

3. On 19th July 2022, the co-accused in the aforesaid crime were found in possession of packets of Gutakha (tobacco products). The allegations against the present Applicant are that the said Gutakha packets were supplied by him.

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

5. The learned Counsel for the applicant submits that except the offence punishable under Section 328 of IPC, all other offences are bailable. It is submitted that the issue of applicability of Section 328 of the Indian Penal Code is pending before the Hon'ble Supreme Court. It is submitted that nothing is to be recovered from the applicant.

6. On the other hand, the learned APP for the State submits that one of the co-accused in his statement stated that the present applicant has supplied the seized Gutakha packets. It is further submitted that the applicant is involved in five more similar offences and thus the custodial interrogation of the present applicant is necessary.

7. I have perused the statement of co-accused Arshad Sattar Memon who according to the prosecution has stated that the seized Gutakha packets were supplied by the present applicant. Perusal of the statement shows that other two co-accused who were found in possession of seized Gutkha packets disclosed the name of Arshad Sattar Memon. According to Arshad Sattar Memon, present applicant used to supply him Gutakha products. He has however not stated that the seized Gutakha packets were supplied to him by the present applicant. Considering the facts and circumstances I am inclined to grant anticipatory bail to the present applicant. Hence, the following order :

- i) Application is allowed.
- ii) In the event of arrest, the applicant-Shaikh Israr Ahmad Niyaz Ahmad in connection with Crime No.265 of 2022 registered at Wada Police Station, Palghar for the offence punishable under Sections 188, 272, 273, 328 r/w. 34 of Indian Penal Code read with Sections 23, 26(2), 26(2)(iv), 27 and 30(2)(a) of Food Safety and Standards Act, 2006, he shall be released on bail on furnishing P.R. Bond in the sum of Rs.25,000/- with one or two sureties in the like amount.
- (iii) The applicant shall attend the concerned police station on every alternate day from 18th October 2022 between 11.00 a.m. to 2.00 p.m. for period of two weeks and shall co-operate in the investigation.

(N.R. BORKAR, J.)

KANCHAN
PRASHANT
DHURI

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