

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
ANTICIPATORY BAIL APPLICATION NO. 3064 OF 2022**

Ramchandra I. Chhatre	... Applicant
V/s.	
The State of Maharashtra	... Respondent

Mr. Mohammad S. Mulla for the Applicant.
Mr. S.D. Shinde, APP for the Respondent – State.

**CORAM : N.R. BORKAR, J.
DATE : NOVEMBER 04, 2022.**

P.C.

- 1] This is an application under Section 438 of Code of Criminal Procedure for anticipatory bail.

- 2] The applicant is apprehending his arrest in Crime No.368 of 2022 registered at Akkalkot North Police Station, Solapur for the offences punishable under Sections 328, 273, 272, 188 of the Indian Penal Code, 1860 (IPC) and Sections 26(2)(i), 26(2)(iv), 27(3)(e) and 59 of Food Safety and Standards Act.

- 3] According to the prosecution, on 14 October 2022, the Food Safety Officer inspected the grocery shop of the present applicant and during inspection Gutkha packets (prohibited tobacco products) were found in the shop of the present applicant.

4] I have heard the learned counsel appearing for the applicant and the learned APP for the respondent / State.

5] The learned counsel for the applicant submits that except offence punishable under Section 328 of IPC, all other offences are bailable. He submits that this Court has held that mere possession, storage or sale of Gutkha packets would not attract Section 328 of the IPC and the said issue is now pending before the Hon'ble Supreme Court. It is submitted that nothing is to be recovered from the applicant and therefore, his custodial interrogation is not necessary. It is submitted that the applicant is ready to cooperate in the investigation. It is therefore, submitted that the applicant may be granted anticipatory bail.

6] On the other hand, the learned APP appearing for the State submits that considering the nature of offence, the applicant may not be released on anticipatory bail. The learned APP however, on instructions, submits that the applicant is not involved in any other criminal case.

7] This Court has held that mere possession or sale of Gutkha products would not attract Section 328 of the IPC and the said issue is still pending before the Hon'ble Supreme Court. All other offences are bailable. Considering this fact and as there are no criminal antecedents, I am inclined to release the applicant on anticipatory bail. In the result the following order is passed.

ORDER

- A) Anticipatory Bail Application is allowed.
- B) In the event of arrest of the applicant in Crime No.368 of 2022 registered at Akkalkot North Police Station, Solapur for the offences punishable under Sections 328, 273, 272, 188 of the IPC and Sections 26(2)(i), 26(2)(iv), 27(3)(e) and 59 of Food Safety and Standards Act, he shall be released on bail on executing P.R. Bond in the sum of Rs.25,000/- with one or two sureties in the like amount.
- C) The applicant shall attend the concerned police station from 14 November 2022 to 16 November 2022 between 11:00 a.m. and 2:00 p.m. and thereafter as and when called by the Investigating Officer and shall cooperate in the investigation.

(N. R. BORKAR, J.)