

The State of Maharashtra ...Respondent

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Mr. Deepak Thakare i/b Gopal Parab for the Applicant.
Mr. A.R. Kapadnis, APP for the State.

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CORAM : N.R. BORKAR, J.
DATED : 30 NOVEMBER 2022

P.C. :-

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

2. The applicant is apprehending his arrest in Crime No. 555 of 2022 registered at Faujdar Chawdi police station, for the offence punishable under Section 328, 272, 273, 188 of Indian Penal Code and under Section 26(2)(i), 26(2)(ii), 26(2)(iv), 27(3)(e), 30(2)(a), 59 of the Food Safety and Standards Act, 2006.

3. On the basis of secret information on 11 August 2021 raid was conducted at the house of co-accused Amol Babasaheb Wadekar and packets of prohibited tobacco products (gutakha) were found in his

house. According to the prosecution the said co-accused Amol Wadekar was interrogated and it was found that he had purchased the said Gutkha packets from the present applicant.

4. I have heard the learned counsel for the applicant and the learned APP for the respondent-State.

5. The learned counsel for the applicant submits that except the offence punishable under Section 328 all other offences are bailable. It is submitted that the issue whether in the facts and circumstances of the case Section 328 would apply or not is still pending before the Hon'ble Supreme Court. It is submitted that there are no other criminal antecedents. It is thus submitted that applicant may be released on anticipatory bail.

6. On the other hand the learned APP submits that considering the nature of offence the applicant may not be released on anticipatory bail.

7. The issue whether in the facts and circumstances of the case Section 328 would apply or not is still pending before the Hon'ble Supreme Court. There are no other criminal antecedents. Nothing is to be recovered at the instance of present applicant and therefore his custodial interrogation is not necessary. Considering the facts and

circumstances of the case, I am inclined to release the applicant on anticipatory bail. Hence, the following order is passed:

- (i) Application is allowed.
- (ii) In the event of arrest of the applicant in Crime No. 555 of 2022 registered at Faujdar Chawdi police station, for the offence punishable under Section 328, 272, 273, 188 of Indian Penal Code and under Section 26(2)(i), 26(2)(ii), 26(2)(iv), 27(3)(e), 30(2)(a), 59 of the Food Safety and Standards Act, 2006, he shall be released on furnishing PR bond in the sum of Rs. 25000/- with one or two sureties in the like amount.
- (iii) The applicant shall attend the concerned police station from 13 December 2022 to 16 December 2022 between 11.00 am to 2.00 pm and thereafter, as and when called by the investigating officer and shall co-operate in the investigation.

(N.R. BORKAR, J.)