

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
NAGPUR BENCH : NAGPUR

CRIMINAL APPLICATION (ABA) NO. 143 OF 2022

Shaikh Raees Shaikh Afsar and another **Versus** State of Maharashtra, thr. PSO, PS Malkapur (Gramin), District Buldhana.

Office Notes, Office Memoranda of
Coram, appearances, Court's Orders
or directions and Registrar's order

Court's or Judge's Order

Shri M.N.Ali, counsel counsel for the applicants.

Shri S.D.Sirpurkar, A.P.P. for the non-applicant/State.

CORAM : ANIL S. KILOR, J.

DATED : 03/08/2022

1. The applicants are seeking pre-arrest bail in Crime No. 239 of 2021, dated 17/09/2022, registered with Police Station, Malkapur (Gramin), District-Buldhana, for the offences punishable under Sections 188, 272, 273, 328 of the Indian Penal Code, 1860 and Sections 26(2)(i), 26(2)(iv), 26(2)(v), 27(2)(e), 30(2)(a), 3 and 59 of the Food Safety and Standards Act, 2006.
2. In this case, the applicants were granted ad-interim anticipatory bail vide order dated 15/03/2022.
3. In similar cases, the Coordinate Bench at Aurangabad granted pre-arrest bail. Whereas, in some of the similar cases, it is denied at Principle Seat, which orders were taken to Hon'ble Apex Court. The Hon'ble Supreme Court of India granted ad-interim bail on 06/01/2022, in those Special Leave Appeals.
4. Thus, in view of the pendency of the Special Leave Appeal No(s).4101/2020 and other similar appeals, the ad-interim anticipatory bail was continued.

5. During the pendency of above referred Special Leave Appeals, many applications came to be filed in respective crimes for similar offences under Sections 272, 273 and 328 of the Indian Penal Code and in all the matters ad-interim anticipatory bail was granted in view of the pendency of the above referred Special Leave Appeals.

6. It is to be noted that in the meantime, in most of the cases, the investigation is over.

7. Thus, in the above referred peculiar facts and circumstances of the case, I am of the opinion that, if the order granting ad-interim anticipatory bail to the applicant, is confirmed and liberty is granted to the State to apply for cancellation of bail if so advised, on decision in above referred appeals pending before the Hon'ble Supreme Court of India, the purpose would be served.

8. In this case, the contrabands have already been seized and the accused attended the Police Station as directed by this Court while granting ad-interim anticipatory bail. In the circumstances, I am of the opinion that further custody of the applicant is not necessary and the applicant is entitled for grant of pre-arrest bail. Accordingly, I pass the following order:

- a) The criminal application is **allowed**.
- b) The order dated 15/03/2022 granting ad-interim bail, is confirmed.
- c) The State is at liberty to apply for cancellation of bail, if so advised on final decision of the Hon'ble Supreme Court of

India in the appeals/applications, pending in similar matters.

The criminal application is **disposed of** accordingly.

[ANIL S. KILOR, J.]