

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

CRIMINAL ABA NO. 820 OF 2021

Ganesh S/o Udaybhan Kumbhalkar

...Versus...

State of Maharashtra, through PSO Sakoli City, Tah. & Distt. Bhandara

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

Court's or Judge's orders

Shri V.S. Mishra, Advocate for appellant
Shri S.A. Ashirgade, Addl.PP for respondent/State

CORAM : SURENDRA P. TAVADE, J.

DATE : 11/01/2022

This is an application for pre arrest bail in Crime No. 506/2021, registered with Sakoli Police Station, District - Bhandara for the offence punishable under Sections 188, 272, 273, 328 r/w Section 34 of the Indian Penal Code. It is the case of the prosecution that accused Nos. 1 and 2 were found in possession of scented tobacco worth Rs.8,19,600/-. On 26/10/2021 the Police patrolling vehicle accosted truck bearing No. MH-26/BE- 2041 wherein 10 gunny bags scented tobacco was found. Driver and other persons were arrested. On investigation, it was revealed that the truck was owned by original accused No.3. It is alleged by the prosecution that he had ordered scented tobacco therefore it was transported at Bhandara. The applicant Nos. 1 and 2 were arrested and they have been released on bail. Applicant No.3 is released on interim

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anticipatory bail. It appears that the applicant No.3 is owner of the vehicle but was not present on the spot. It appears that from the reply of the prosecution that contraband tobacco was ordered by applicant, hence it was transported to Rajnandgaon to Bhandara. The learned Counsel for the applicant submits that he was not present on the spot and the allegations are levelled against him at the behest of the co-accused. Therefore, there is no material to hold that contraband was ordered by him.

2. On the other hand the learned prosecutor submits that the applicant is also facing similar types of offence registered at Adyal Police Station, Bhandara. The allegations are also similar in nature. He also submits that applicant is habitual offender and he is trading in prohibited scented tobacco.

3. On perusal of the First Information Report and the order of the Trial Court, it appears that the case of applicant is on different pedestal than the persons who are released on bail. It appears that at the instance of the applicant the contraband articles were transported from Rajnandgaon to Bhandara. Therefore the custodial interrogation of the applicant is required. Hence I am of the opinion that the applicant is not entitled to pre arrest bail. Hence the application is rejected.

(SURENDRA P. TAVADE, J.)

Jayashree..