

IN THE HIGH COURT OF JUDICATURE OF BOMBAY
BENCH AT AURANGABAD

941 ANTICIPATORY BAIL APPLICATION NO.628 OF 2023

SHIVLING GURULING HAMNE
VERSUS
THE STATE OF MAHARASHTRA

...
Advocate for Applicant : Mr. Vivekanand Balasaheb Jadhav
APP for Respondent – State : Mr. G.O. Wattamwar
...

CORAM : R. M. JOSHI, J.
DATE : JULY 19, 2023

PER COURT :

1. Applicant is apprehending arrest in connection with Crime No.73 of 2023 registered with Ahmedpur Police Station, Tal. Ahmedpur, Dist. Latur for the offences punishable under Section 188, 272, 273 r/w. 34 of the Indian Penal Code and Section 59 of the Food Safety and Standards Act, 2006.

2. Perusal of the FIR shows that on 10.02.2023 raid was conducted wherein the contraband articles like Gutkha and Pan Masala were found in the custody of co-accused.

3. Learned counsel for applicant states that except for

alleged statement of co-accused, there is absolutely no evidence on record to connect applicant with crime in question. He further states that nothing is to be recovered at instance of applicant as the entire recovery is already done. He further states that issue as to whether offence punishable under Section 328 of the I.P.C. would attract to contraband articles – Gutkha and Pan Masala is pending before the Hon'ble Apex Court.

4. Learned APP has opposed application contending that huge amount of contraband articles are seized from spot of occurrence. The investigation is required to be done in respect of the source of the said contraband articles – Gutkha and Pan Masala. According to him Section 328 of the IPC gets attracted in the present case and hence prayed to reject application.

5. Prima facie perusal of record indicates that except for the alleged statement of co-accused, there is no other material on record to connect the applicant with the crime in question.

6. At this stage it cannot be held with certainty that Section

328 of the IPC gets attracted in the present crime. Other offences in the present crime are bailable. So far as further investigation is concerned in order to find out the source of said contraband, issuance of appropriate direction to applicant to appear before the Investigating Officer would be sufficient.

7. In view of aforesaid facts, liberty of applicant deserves to be protected till the prosecution is heard in the matter. Hence, following order.

ORDER

- (i) Till the next date, in the event of arrest of applicant in connection with Crime No.73 of 2023 registered with Ahmedpur Police Station, Tal. Ahmedpur, Dist. Latur for the offences punishable under Section 188, 272, 273 r/w. 34 of the Indian Penal Code and Section 59 of the Food Safety and Standards Act, 2006, he be released on bail on furnishing PR Bond of Rs.15,000/- (Rs. Fifteen Thousand only) with one solvent surety in the like amount.
- (ii) He shall attend the concerned police station as and when called.

- (iii) He shall not contact the witnesses directly or indirectly.
- (iv) He shall not interfere with the evidence in any manner whatsoever.
- (v) He is further directed to cooperate with the investigating agency for further investigation.

[R. M. JOSHI]
JUDGE

GGP