

IN THE HIGH COURT OF JUDICATURE OF BOMBAY
BENCH AT AURANGABAD

938 ANTICIPATORY BAIL APPLICATION NO.645 OF 2023

JAKER BABULAL TAMBOLI
VERSUS
THE STATE OF MAHARASHTRA AND ANOTHER

...
Advocate for Applicant : Mr. Vivekanand B. Deshmukh
APP for Respondent – State : Mr. V.S. Badakh
...

CORAM : R. M. JOSHI, J.
DATE : 7th JULY, 2023

PER COURT :

. Applicant is apprehending arrest in connection with Crime No.117 of 2023 registered with Osmanabad City Police Station, Dist. Osmanabad for the offences punishable under Sections 328, 272, 273, 188 of the Indian Penal Code.

2. It is contended by learned counsel for applicant that applicant is said to be the owner of shop from which seizure is done. However, there is no justification to accept the contention of the prosecution that he ran away from the spot. Nothing is to be recovered at his instance as the entire recovery is already done. He further submits that issue as to whether offence punishable under

Section 328 of the I.P.C. would attract to contraband article – Gutkha is pending before the Hon'ble Apex Court.

3. Learned APP opposed application contending that huge amount of contraband is seized from applicant. The investigation is required to be done in respect of the source of the said contraband article – Gutkha.

4. Even accepting the aforesaid contentions of learned APP, Section 328 of the I.P.C. does not get attracted in the present matter and the other offences are bailable. So far as further investigation is concerned in order to find out the source of said contraband, appropriate direction to applicant to appear before the Investigating Officer would be sufficient.

5. In view of above, following order is passed.

ORDER

- (i) Application is allowed on the same terms of interim order dated 26.04.2023.

[R. M. JOSHI]
JUDGE