

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD**

ANTICIPATORY BAIL APPLICATION NO.676 OF 2023

**JAKIR HUSSAIN OSMAN TAMBOLI
VERSUS
THE STATE OF MAHARASHTRA AND ANOTHER**

Mr. S. J. Salunke, Advocate for the applicant
Mr. G. O. Wattamwar, APP for the respondent/State

CORAM : R. M. JOSHI, J.

DATE : 06th JUNE, 2023

P.C. :-

1. The applicant is apprehending arrest in connection with C.R. No. 116 of 2023 registered with Osmanabad City Police, Dist. Osmanabad. The first information report indicates that on 08/04/2023 secret information was received about Gutkha being possessed by accused. The shop of Jakir Hussain Osman Tamboli (applicant) was raided and in the said raid Gutkha was Rs. 2,14,890/- seized. Offiecne is registered against the applicant under Section 328 of the Indian Penal Code.

2. Learned counsel for the applicant states that the issue as to whether the offence punishable under Section 328 of IPC would attract to Gutkha is pending before the Hon'ble Apex Court. He further states that the entire recovery is already done, custodial interrogation of the

applicant is not necessary. This contention is opposed by the learned APP with the submission that the investigation needs to be done as to the source of the said Gutkha and hence application be rejected.

3. At this stage it cannot be said that the offence punishable under Section 328 of IPC would attract in the present case. As far as the recovery is concerned entire muddemal is seized during the raid. Nothing is to be recovered that the instance of the applicant. There is no evidence to connect applicant with crime. So far as further investigation is concerned, in order to find out the source of said contra band, appropriate direction to the applicant to appear before the Investigation Officer would be sufficient.

4. In the result, interim relief deserves to be confirmed. Hence the order.

ORDER

. Application is allowed on the same terms of interim order dated 2nd May, 2023.

(R. M. JOSHI, J.)

ssp