

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

**ANTICIPATORY BAIL APPLICATION NO.651 OF 2023
WITH ABA/785/2023 WITH ABA/786/2023**

**SHAIKH ASIF SAMAD
VERSUS
THE STATE OF MAHARASHTRA**

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**Advocate for Applicant : Mr. C. C. Deshpande h/f Mr. A.
K. Bhosle**

APP for Respondents: Mrs. G. L. Deshpande

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CORAM : R.M. JOSHI, J

DATE : JULY 12, 2023

PER COURT :

1. Applicant apprehends arrest in connection with with C.R. No. 233 of 2023 registered with MIDC Waluj Police Station, Dist. Aurangabad for the offences punishable under Sections 188, 272, 273, 328 read with Section 34 of the Indian Penal Code and Section 59 of Food Safety and Standards Act, 2006.

2. Learned Counsel for the Applicants 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 since the entire recovery is already done, custodial interrogation of the Applicants is not necessary.

3. This contention is opposed by learned APP by submitting that the investigation needs to be done in order to find out the source of the said Gutkha. She further states that huge quantity of contraband is seized and hence, applications be rejected.

4. At this stage, it cannot be said that the offence punishable under Sections 328 of IPC, would attract in the present case. As far as the recovery is concerned, the entire contraband articles were seized during the raid. Nothing is to be recovered at the instance of Applicants. So far as further investigation is concerned, in order to find out the source of the said contraband, appropriate direction to the Applicants to appear before the investigating officer would be sufficient.

5. Hence, the order:

O R D E R

- (i) Applications are allowed.
- (ii) In the event of arrest the Applicants in connection with with C.R. No. 233 of 2023 registered with MIDC Waluj Police Station, Dist. Aurangabad for the offences punishable under Sections 188, 272, 273, 328 read with Section 34 of the Indian Penal Code and

Section 59 of Food Safe and Standards Act, 2006, they shall be released on bail on furnishing PR bond of Rs. 15,000 (Rupees Fifteen Thousand Only) each with one solvent surety in the like amount.

- (iii) They shall attend the concerned police station once in a week.
- (iv) They shall not contact the witnesses directly or indirectly.
- (v) They shall not interfere with the evidence in any manner whatsoever.
- (vi) They are further directed to cooperate the investigating agency for further investigation.

(R.M. JOSHI, J.)

Malani