

IN THE HIGH COURT OF JUDICATURE OF BOMBAY
BENCH AT AURANGABAD
ANTICIPATORY BAIL APPLICATION NO. 790 OF 2023

Sarjerao s/o Pralhadrao Shinde

Applicant

Versus

The State of Maharashtra

Respondent

Mr. K. B. Jadhav, Advocate for the applicant.

Mr. G. O. Wattamwar, APP for the State.

CORAM : R. M. JOSHI, J.

DATE : 23rd JUNE, 2023.

PER COURT :

1. Applicant is apprehending arrest in connection with Crime No. 134/2023 registered with Manwat Police Station, Dist. Parbhani, for the offences punishable under Sections 328, 272, 273, 188 read with Section 34 of the Indian Penal Code.

2. First Information Report indicates that on 23rd April, 2023, secret information was received that co-accused Ashok Marotrao Kadam has stored contraband articles in a cattle shed behind Maruti temple. Accordingly, raid was conducted and contraband articles including Gutkha were seized from the spot. In the investigation, it is revealed that said Ashok Kadam is the owner of

the premises from where the contraband articles were seized. Accordingly, offence came to be registered.

3. Learned counsel for the applicant states that the issue as to whether the offence punishable under Section 328 of the Indian Penal Code would attract to Gutkha is pending before the Hon'ble Apex Court. He further states that the entire recovery is already done hence, custodial interrogation of the applicant is not necessary.

4. This contention is opposed by learned APP with the submission that the investigation needs to be done in order to find out the source of the said Gutkha and hence, application be rejected.

5. At this stage, it cannot be said that the offence punishable under Section 328 of the Indian Penal Code would attract in the present case. As far as recovery is concerned, entire contraband articles are seized during the raid. Nothing is to be recovered at the instance of the present applicant. At this stage, except for the alleged statement of the co-accused, there is no evidence to connect the applicant with the crime. So far as further investigation is concerned, in order to find out the source of said

contraband articles, appropriate direction to the applicant to appear before the Investigating Officer would be sufficient.

6. In the result, application is allowed subject to following conditions :-

(i) In the event of arrest of applicant in connection with Crime No. 134/2023, registered with Manwat Police Station, Dist. Parbhani, for the offences punishable under Sections 328, 272, 273, 188 read with section 34 of the Indian Penal Code, 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.

(iii) He shall attend the concerned police station once in a week.

(iv) He shall not contact the witnesses directly or indirectly.

(v) He shall not interfere with the evidence in any manner whatsoever.

(vi) He is further directed to cooperate the investigating agency for further investigation.

(R. M. JOSHI)
Judge