

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

ANTICIPATORY BAIL APPLICATION NO. 807 OF 2023

**SANDIP DATTA BHUMKAR
VERSUS
THE STATE OF MAHARASHTRA**

Mr. S. P. Rathod, Advocate for the applicant
Mr. G. O. Wattamwar, APP for the respondent/State

CORAM : R. M. JOSHI, J.
RESERVED ON : 22/06/2023
PRONOUNCED ON : 30/06/2023

ORDER :-

1. Applicant apprehends arrest in connection with Crime No. 75/2022 registered with Hasnabad Police Station, Tal. Bhokardan, Dist. Jalna for the offences punishable under Sections 328, 188, 272, 273 read with 34 of the IPC.

2. The first information report indicates that on 17/04/2022 secret information was received about Gutkha being possessed by accused. The field of Sandip Bhumkar (applicant) was raided and in the said raid gutkha, pan masala, Mahindra Pickup vehicle and mobile phone of Rs. 54,66,200/- were seized. Offence 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 contra band articles are seized during the raid. Nothing is to be recovered that the instance of the applicant. There is no *prima facie* evidence on record to connect present 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. Appropriate direction can be issued to the applicant to appear before Investigating Officer and co-operate in further investigation remained if any. Hence the order.

ORDER

- (i) Application is allowed.
- (ii) In the event of arrest of applicant in connection with Crime No. 75/2022, registered with Hasnabad Police Station, Tal. Bhokardan, Dist. Jalna for the offences punishable under Sections 328, 188, 272, 273, 34 of IPC, he shall be released on bail on furnishing PR Bond of Rs.15,000/- (Rupees 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, J.)

ssp