

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

ANTICIPATORY BAIL APPLICATION NO.850 OF 2023

SAMIR YAKUB NICHALKAR
VERSUS
THE STATE OF MAHARASHTRA

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Advocate for Applicant : Ms. R. C. Bhende h/f Mr. V. B.
Jadhav

APP for Respondents: Mr. S. N. Morampalle

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CORAM : R.M. JOSHI, J

DATE : JULY 06, 2023

PER COURT :

1. Applicant apprehends arrest in connection with with C.R. No. 237 of 2023 registered with Ahmedpur Police Station, Tq. Ahmedpur, Dist. Latur for the offences punishable under Sections 188, 272, 273, 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 since the entire recovery is already done, custodial interrogation of the Applicant 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 and hence, application 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 Applicant. So far as further investigation is concerned, in order to find out the source of the said contraband, appropriate direction to the Applicant to appear before the investigating officer would be sufficient.

5. Hence, the order:

O R D E R

- (i) Application is allowed.
- (ii) In the event of arrest the Applicant in connection with with C.R. No. 237 of 2023 registered with Ahmedpur Police Station, Tq. Ahmedpur, Dist. Latur for the offences punishable under Sections 188, 272, 273, 328 of the Indian Penal Code, 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.)

Malani