

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

ANTICIPATORY BAIL APPLICATION NO.864 OF 2023

**AJAY GOVIND BOMBATKAR
VERSUS
THE STATE OF MAHARASHTRA**

Mr. A. L. Kanade, Advocate for the applicant
Mr. S. P. Sonpawale, APP for the respondent/State

CORAM : R. M. JOSHI, J.
DATE : 08th JUNE, 2023

P.C. :-

1. The applicant is apprehending arrest in connection with C.R. No. 127 of 2023 registered with Muktainagar Police Station, Dist. Jalgaon for the offences punishable under Sections 328, 272, 273, 188 of IPC. The information given by Dy.S.P., Muktainagar about seizure of Gutkha and other contra band articles from Rajesh Morkar. At that time along with these contra band articles the vehicle was also seized. It is recorded in the report that accused Rajesh has informed to the police about the said article being owned by present applicant. Applicant therefore apprehends arrest.

2. Learned counsel for the applicant states that provisions of Section 328 of IPC may not be applicable to the present case. It is further submitted that except for the alleged statement of the co-

accused there is absolutely no evidence on record to connect applicant with this crime. He further states that as the entire muddemal is seized, nothing is to be recovered from the present applicant and his custodial interrogation need not necessary.

3. Learned APP opposed the application with the contention that co-accused are made statement about he being at the spot with the present applicant and also states about the applicant to be owner of the said article. Thus, according to him there is evidence to connect the applicant with the crime. He submitted that the Investigating Officer could not search the premises of the applicant as he has absconded.

4. Though perusal of the investigation papers show that co-accused claimed that applicant was there at the spot along with the applicant however, the first information report which is given by Senior Police Officer does no show his presence. The statement of the co-accused which is otherwise also not admissible in evidence becomes doubtful too. The submissions of the prosecution that the premises of the applicant could not be searched for want of his presence does not deserve acceptable as it was open for the investigation officer to take appropriate steps for obtaining warrant for search of the premises. In action on the part of the investigating officer to take steps in this regard

speaks volumes.

5. Having regard to the aforesaid facts and circumstances of the case, custodial interrogation of the applicant is not necessary. Hence the order.

ORDER

(i) Application is allowed.

(ii) In the event of arrest of applicant in connection with Crime No. 127/2023, registered with Muktainagar Police Station, Dist. Jalgaon for the offences punishable under Sections 328, 272, 273, 188 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) Applicant is directed to appear before the concerned Investigating Officer once a week till filing of the charge-sheet.

(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