

IN THE HIGH COURT OF JUDICATURE OF BOMBAY
BENCH AT AURANGABAD

ANTICIPATORY BAIL APPLICATION NO. 887 OF 2023

Shaikh Rauf Niyazoddin

Applicant

Versus

The Superintendent of Police & another

Respondents

Mr. R. R. Karpe, Advocate for the applicant.

Mrs. R. P. Gour, APP for the State.

CORAM : R. M. JOSHI, J.

DATE : 11th JULY, 2023.

PER COURT :

1. Applicant is apprehending arrest in connection with Crime No. 46/2023 registered with Pimpalner Police Station, Dist. Beed for the offences punishable under Section 272, 273, 328 of Indian Penal Code.

2. The First Information Report indicates that on 21st March, 2023, secret information was received that Maharudra Narayan Mule is selling contraband articles in his land near Ghodkararuji Phata to Wangi road. Accordingly, the spot was raided at 8.00 am on 21st March, 2023 and contraband articles were seized.

It is alleged in the First Information Report that the applicant herein fled away from the spot along with co-accused.

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 and 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 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. Applicant is stated to be the supplier of the contraband articles. Except for the statement of co-accused, no other evidence is on record. As far as the recovery is concerned, entire contraband articles are seized during the raid. Nothing is to be recovered at the instance of the present applicant. 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 in terms of the interim order.

(R. M. JOSHI)
Judge

dyb