

IN THE HIGH COURT OF JUDICATURE OF BOMBAY
BENCH AT AURANGABAD

ANTICIPATORY BAIL APPLICATION NO. 955 OF 2023

Shaikh Farukh s/o Shaikh Jilani

Applicant

Versus

The State of Maharashtra

Respondent

Mr. B. N. Gadegaonkar, Advocate for the applicant.

Mr. S. N. Morampalle, APP for the State.

CORAM : R. M. JOSHI, J.

DATE : 21st JULY, 2023.

PER COURT :

1. Applicant is apprehending arrest in connection with Crime No. 0196/2023 registered with Nanalpeth Police Station, Dist. Parbhani, for the offence punishable under Section 188, 272, 273, 328 of the Indian Penal Code.

2. The First Information Report indicates that on 31st May, 2023, secret information was received that Sk. Sikandar Sk. Khaja has stored contraband articles at his home. Accordingly raid was conducted on the spot and contraband articles were seized and offence under Section 328 of the Indian Penal Code was 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 and hence, custodial interrogation of the applicant is not necessary.

4. This contention is opposed by learned APP with the submission that 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 the present case. As far as the recovery is concerned, entire contraband articles are seized during the raid. Nothing is to be recovered from the instance of the 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 application to appear before the Investigating Officer would be sufficient.

6. In view of above, application stands allowed in terms of the interim order.

(R. M. JOSHI)
Judge

dwb