

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

BAIL APPLICATION NO.1313 OF 2023

SAYYED SAJED FAROOQ SAYYED
VERSUS
THE STATE OF MAHARASHTRA

...
Advocate for Applicant : Mr. Avinash R. Borulkar
APP for Respondent : Mr. K. S. Patil
...

CORAM : S. G. MEHARE, J.

DATE : 09-08-2023

PER COURT :-

1. Heard the learned counsel for the applicant and the learned A.P.P. for the respondent.
2. The applicant seeks bail in C.R.No.0175 of 2023 registered with Jinsi Police Station, Aurangabad, for the offences punishable under Sections 188, 272, 273, 328 read with Section 34 of the Indian Penal Code and Sections 26(1), 26(2)(IV), 27(3)(D), 27(3)(e), 59 of the Food Safety and Standards (Prohibition and Restriction of Sale) Regulation Act, 2006.
3. In this case the only non-bailable offence is under Section 328 of the Indian Penal Code. Time and again this Court has observed that the issue of applicability of Section 328 of the Indian Penal Code in gutka is seized with the Hon'ble Supreme Court and the Hon'ble Supreme Court granted bail to the accused. Hence, bail shall be granted. It appears from the order of the learned

Additional Sessions Judge, Aurangabad, refusing bail in Criminal Bail Application No.1422 of 2023, it was brought to the notice of the learned Sessions Court that this Court in Bail Application [*Ramrup Bhagwandas Gupta Vs. State of Maharashtra, 2006(4) LJ Soft (URC) 25*] granted bail, since the issue was seized with the Hon'ble Supreme Court. Even then, the bail was refused. It is really unfortunate.

4. The applicant deserves bail in the C.R. as applicability of Section 328 of the Indian Penal Code is seized with the Hon'ble Supreme Court. The other offences are bailable. The gutka allegedly carried was seized at the time of raid. Nothing is to be recovered from the applicant. Hence, the order:-

- i) The application is allowed.
- ii) Applicant Sayyed Sajed Farooq Sayyed, be released on bail, on furnishing PB and SB of Rs.50,000/-, with one solvent surety of like amount, in C.R.No.0175 of 2023 registered with Jinsi Police Station, Aurangabad, for the offences punishable under Sections 188, 272, 273, 328 read with Section 34 of the Indian Penal Code and Sections 26(1), 26(2)(IV), 27(3)(D), 27(3)(e), 59 of the Food Safety and Standards (Prohibition and Restriction of Sale) Regulation Act, 2006, on the condition that he shall attend the police station as and when called by the Investigating Officer on a written notice till filing of the chargesheet.

**(S. G. MEHARE)
JUDGE**