



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

ANTICIPATORY BAIL APPLICATION NO. 1339 OF 2023

Shahnur Mohiddin Shaikh
VERSUS

The State Of Maharashtra

Ms. Priyanka P. Shinde, Advocate h/f Mr. A. K. Bhosle, Advocate for the applicant
Mr. N. B. Jadhav, APP for the respondent/State

CORAM : R. M. JOSHI, J.

DATE : 13th DECEMBER, 2023

P.C. :-

1. Applicant apprehends arrest in connection with Crime No. 732/2023 registered with Pathardi Police Station, Dist. Ahmednagar for the offences punishable under Sections 328, 188, 272, 273 of IPC.
2. The first information report indicates that on 13/07/2023 secret information was received about scented tobacco etc. being possessed by accused. In the said raid scented tobacco was seized. Offence is registered against the applicant under Section 328 of the Indian Penal Code.
3. 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

the entire recovery is already done, custodial interrogation of the applicant is not necessary. This contention is opposed by the learned APP with the submission that the investigation needs to be done as to the source of the said scented tobacco and hence application be rejected.

4. Except for statement of co-accused, there is no any other evidence to connect applicant in this crime. At this stage it cannot be said that the offence punishable under Section 328 of IPC would attract in the present case. As far as the recovery is concerned entire contra band articles are seized during the raid. Nothing is to be recovered that the instance of the applicant. There is no *prima facie* evidence on record to connect present applicant with crime. So far as further investigation is concerned, in order to find out the source of said contra band, appropriate direction to the applicant to appear before the Investigation Officer would be sufficient. Appropriate direction can be issued to the applicant to appear before Investigating Officer and co-operate in further investigation remained if any. There is no criminal history against the applicant. Applicant has not abused liberty. Hence application is allowed in terms of interim order dated 18th August, 2023.

(R. M. JOSHI, J.)

ssp