

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

ANTICIPATORY BAIL APPLICATION NO.1762 OF 2023

AVINASH SHIVAJI DHAWALE

VERSUS

THE SUPERINTENDENT OF POLICE AND ANOTHER

...

Advocate for Applicant : Mr. R. R. Karpe

APP for Respondents: Mr. G. O. Wattamwar

...

CORAM : R.M. JOSHI, J

DATE : OCTOBER 30, 2023

PER COURT :

1. Applicant apprehends arrest in connection with with C.R. No. 544 of 2023 registered with Karjat Police Station, Dist. Ahmednagar for the offences punishable under Sections 188, 272, 283, 328 of the Indian Penal Code.

2. FIR indicates that on 23.08.2023 secret informant was received about tobacco and pan masala being possessed by co-accused. In the said raid, pan masala, tobacco etc were seized. Offence is registered against the Applicant and co-accused under Section 328 of IPC.

3. Learned Counsel for the Applicant submits 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 submits that except for the statement of co-accused, there is no evidence against Applicant to connect him with the crime. He further submits that since entire recovery is already done, the custodial interrogation of the Applicant is not necessary.

4. Learned APP opposed the application by submitting that the investigation needs to be done as to the source of the said Gutkha. Hence, according to him, it is not a fit case for grant of pre-arrest bail.

5. 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 contraband articles were seized during the raid. Nothing is to be recovered at the instance of present Applicant. Except for the statement of co-accused, there is no other evidence to connect him with the crime. So far as further investigation is concerned, in order to find out the source of said contraband, appropriate direction to the Applicant to appear before the investigating officer would be

sufficient.

6. In view of above, application stands allowed by confirming interim order dated 23rd October, 2023.

(R.M. JOSHI, J.)

Malani