

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION**

ANTICIPATORY BAIL APPLICATION NO.713 OF 2023

Sameer Subhash Mehta

...Applicant

Versus

The State of Maharashtra

...Respondent

...

Mr. Niranjan Mundargi with Mr. Tejas P. Hartalkar for the Applicant.

Mr. S.V. Gavand, APP for Respondent -State.

Mr. S.P. Gode, PSI, Pandharpur Gramin Police Station, present.

CORAM: SMT. ANUJA PRABHUDESSAI, J.

DATED : 9th MARCH, 2023.

P. C. :-

1. This is an application under Section 438 of Cr.P.C. filed by the Applicant apprehending his arrest in Crime No.17 of 2023 registered with Pandharpur Rural Police Station, District Solapur for the offences punishable under Sections 272, 273, 120-B, 328 and 420 read with Section 34 of the IPC and Sections 23(1), 26(1), 26(2)(ii), 3(1)(zz)(iv), 26(2)(v), 27(2)(d), 59 and 3 of the Food Safety and Standards Act, 2006.

2. Heard Mr. Niranjan Mundargi, learned counsel for the Applicant, Mr. S.V. Gavand, learned APP for Respondent -State. I have perused the records and considered the submissions advanced by the

learned counsel for the respective parties.

3. The records reveal that the Applicant had filed an application for pre-arrest bail along with interim application before the Sessions Judge, Pandharpur. Learned Judge had issued notice in the interim application. The said application was not decided. During the pendency of the interim application, learned Sessions Judge rejected the main application stating that since the interim relief is not granted, the main application itself has become infructuous.

4. It is not in dispute that neither the interim relief was rejected nor the Applicant was arrested during the pendency of the application before the learned Sessions Judge. It is thus evident that the application had not rendered infructuous. The reasons assigned by the learned Sessions Judge for rejecting the application for pre-arrest bail cannot be sustained. Since the application for pre-arrest bail was not decided on merits, in my considered view this would be a fit case to set aside the order dated 24/02/2023 and remit the matter to the Sessions Court to decide the matter afresh.

5. The application stands disposed of accordingly.

(SMT. ANUJA PRABHUDESSAI, J.)