

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

ANTICIPATORY BAIL APPLICATION NO.1734 OF 2023

Somning alias Somnath Shivanna
Pujari

...Applicant

Versus

The State of Maharashtra

...Respondent

...

Mr. Veerdhaval Kakade for the Applicant.

Mr. R.M. Pethe, APP for the Respondent -State.

PHC-Yelpatte, Mangalvedha Police Station, present.

**CORAM: SMT. ANUJA PRABHUDESSAI, J.
DATED: 3rd JULY, 2023.**

P. C. :-

1. The Applicant apprehends his arrest in C.R. No. 291 of 2023 registered with Mangalvedha Police Station, Solapur (rural), for the offences punishable under Sections 188, 272, 273, 328 r/w 34 of the IPC and Sections 26(2)(i), (ii) and (iv), 27(3)(e) and 30(2)(a) of the Food Safety and Standards Act-2006.

2. Heard Mr. Kakade, learned counsel for the Applicant and Mr. R.M. Pethe, learned APP for the Respondent -State. I have perused the records and considered the submissions advanced by the learned counsel for the respective parties.

3. The aforesaid crime was registered pursuant to the FIR lodged by Food Safety Officer, Food and Drugs Administration, Solapur. The facts narrated in the FIR reveal that on 17/04/2023 the First Informant had received information that some prohibited goods were likely to be transported from Nipani to Maharashtra. Pursuant to the said information Vehicle No. MH-12-HD 7876 was intercepted. It is alleged that some plastic bags carrying Hira Pan Masala and scented tobacco (prohibited goods) were being transported by the said vehicle. Hence, crime came to be registered and the driver of the said vehicle was arrested. The driver informed that the said vehicle is owned by the Applicant herein. On the basis of the said information the Applicant came to be arrayed as an accused in the said crime.

4. The only incriminating material against the Applicant is that he is the owner of the vehicle, which was used for transporting the prohibited goods. There is no prima facie material to indicate that the Applicant was involved in purchase or sale of the said prohibited goods. Furthermore, prima facie the applicability of Section 328 of the IPC is also doubtful. Other offences are bailable.

5. Considering the above facts and circumstances, this is a fit case to exercise discretion under Section 438 of the Cr.P.C. in favour of the Applicant. Hence, the application is allowed on the following terms and conditions :-

- (i) In the event of arrest of the Applicant in C.R. No. 291 of 2023 registered with Mangalvedha Police Station, Solapur (rural), he shall be released on bail on furnishing bail bonds in the sum of Rs.25,000/- with one or two sureties to the like amount;
- (ii) The Applicant shall report to the Investigating Officer for two days i.e. 06/07/2023 and 07/07/2023 between 11.00 a.m. to 2.00 p.m. and thereafter as and when required by the Investigating Officer for the purpose of investigation;
- (iii) The Applicant shall not tamper with the prosecution evidence and or influence the witnesses in any manner;

(iv) The Applicant shall keep the Investigating Officer informed of his current address and mobile contact numbers, and /or change of residence or mobile details, if any, from time to time.

6. The application stands disposed of.

(SMT. ANUJA PRABHUDESSAI, J.)