

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

ANTICIPATORY BAIL APPLICATION NO. 190 OF 2023

Mohammad Shadab Abdul
Qayyum Khan

...Applicant

vs.

The State of Maharashtra

...Respondent

Mr. Tushar Sonawane a/w Adv. Pooja Satpute - Advocate for the
Applicant

Mr. S. R. Agarkar - APP for the Respondent-State

API Ashok Shendage – Crime Branch Thane City

PSI Sanil Patil – Pelhar Police Station

CORAM : S. M. MODAK, J.

DATE : 15th JUNE, 2023

P. C. :-

1. Heard learned Advocate Shri Sonawane for the Applicant
and learned APP for the Respondent-State.

2. Mr. Sonawane has apprised the Court about various
Orders passed by the Division Bench of this Court, by learned Single
Judge and by Apex Court. He placed on record summary giving
chronology of these Orders. It is taken on record and marked as
'Annexure-X'. From the above orders, one Order dated 14/06/2022

passed in the case of Sanjay Ramdas Ranware Vs. The State of Maharashtra in Anticipatory Bail Application No. 1365 of 2022 delivered by Coram:- Shri N. J. Jamadar, J. is placed on record. It is taken on record and marked as 'Y'. Considering the fact that the entire quantity of the Contraband articles is seized, the learned Single Judge opined that the custodial interrogation of the Applicant is not warranted. Hence Anticipatory Bail was granted.

3. From this chronology of the Orders submitted today, it is true that the different views are expressed by the Division Bench on one hand and by learned Single Judge, on the other hand. It is also submitted that the Hon'ble Supreme Court in the matter of The State of Maharashtra and Ors. Vs. Anand Ramdhani Chaurasia and Anr.¹ has stayed the operation of the judgment passed by the Division Bench (wherein view is taken that the unless there is administration of the Contraband articles, the provisions of the Section 328 of the Indian Penal Code cannot be invoked). However, it is also true that the Hon'ble Supreme Court in the matter of Parvez Ansari and Anr. Vs. The State of Maharashtra² and other Connected matters has protected the Petitioners subject to the direction to co-operate the

1 Special Leave Petition (Criminal) Diary No. 8224 of 2020 decided on 31/08/2020.

2 SLP (Criminal) 1221 of 2023, decided on 06/02/2023.

investigation.

4. In view of the above divergence of opinion, it is not proper to go into the contentious issue at this stage. In view of that I have heard both the sides, on the factual aspects.

5. The F.I.R. is registered with Pelhar Police Station at C.R. No. 1055 of 2022 on 13/12/2022. It is for the offence punishable under Sections 328, 188, 273 read with 34 of the Indian Penal Code and Sections 26(2)(iv) and 30(2)(a) of the Food and Safety Act. It is registered against in all four persons. Whereas the present Applicant is not named therein.

6. The sum and substance of the allegation is that Contraband articles consists of Gutkha and Pan Masala in different quantities, were stored. Its value is about Rs. 9,67,495/-. It is stored in Radhika Stores, Navjeevan, Vasai (E). Furthermore, the similar articles were also found stored in adjoining room. During the inquiry, it was revealed that further Contraband articles was also kept in one house at some distance.

7. Accordingly, all these Contraband articles were seized from various places. The persons who are found there, they were arrested and F.I.R. Came to be lodged against them. It is mentioned in

the F.I.R. that the arrested accused disclosed the name of the present Applicant as supplier of those Contraband articles. That is why on the basis of the apprehension, he has first moved to the Court of the Sessions Thane and thereafter, he approached this Court. This Court has already granted interim protection as per Order dated 20/01/2023. He has already given attendance to the Police Station.

8. In view of the above, his custodial interrogation is not required. Hence Order:-

- (i) The Order dated 20/01/2023 is confirmed.
- (ii) Applicant is directed to co-operate the Police as and when required.

9. Accordingly, Anticipatory bail application is disposed of.

[S. M. MODAK, J.]