

2. I have heard the learned counsel for the applicants and the learned APP for the respondent-State.

3. On 30 December 2022, pursuant to secret information trucks bearing registration No. RJ-06-GB-5203 and RJ-09-GB-0472 were intercepted and on inspections of the said trucks, Gutkha packets (Prohibited Tobacco Products) worth Rs. 1,95,87,000/- were found in the said trucks. According to the prosecution, the present applicants are owners of the said trucks.

4. The learned counsel for the applicants submits that the applicants had already sold the trucks in question to third party. In support of said submission, the learned counsel for the applicants has relied upon 'Certificate of Registration'.

5. I have perused the Certificates of Registration placed on record. Prima facie, there appears to be substance in the submission of the learned counsel for the applicants. Even otherwise, issue of applicability of Section 328 of the Indian Penal Code to mere possession of Gutkha products is pending before the Hon'ble Supreme Court. Considering the overall facts and circumstances of the case, I am inclined to release the applicants on anticipatory bail. Hence, the following order is passed:

- (i) Applications are allowed.
- (ii) In the event of arrest of applicants in Crime No. 224 of 2022 registered at Wadiwarhe Police Station, Nashik for the offences punishable under Sections 188, 179, 272, 273, 328, 420 r/w 34 of the Indian Penal

Code and Sections 26(2)(iv), 27(3)(d), 30(2)(a), 3(1)(zz)(i), 1 (zz)(v) and 59 of Food Safety and Standards Act, 2006, they shall be released on bail on furnishing PR bond in the sum of Rs. 25,000/- each with one or two local sureties in the like amount.

(iii) The applicants shall attend the concerned police station as and when called by the Investigating Officer and shall co-operate in the investigation.

(N.R. BORKAR, J.)