

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

ANTICIPATORY BAIL APPLICATION NO.323 OF 2023

Mohd. Sajid Maqsood Ahmed Khan ...Applicant

Versus

The State of Maharashtra ...Respondent

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Mr. Yazad M. Udwadia with Ms Ridhima Mangaonkar for the Applicant.
Ms A.A. Takalkar, APP for Respondent-State.
PSI -Koregaonkar, present.

CORAM: SMT. ANUJA PRABHUDESSAI, J.

DATED : 17th APRIL, 2023.

P. C. :-

1. This is an application under Section 438 of the Cr.P.C. filed by the aforesaid Applicant apprehending his arrest in C.R. No.5 of 2023 registered with Kasturba Police Station, Mumbai for the offences punishable under Sections 272, 273 and 328 of the IPC and Section 59 of the Food and Safety Standards Act, 2006.

2. Heard Mr. Udwadia, learned counsel for the Applicant and Ms Takalkar, 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 case of the prosecution is that on 02/01/2022 at about 11.45 p.m. one Auto Riksha No.MH 47 X 5898 was intercepted. It was found that Gutkha was being transported by the said Auto Riksha. The contraband was seized and the sample was sent for analysis. Driver of the said Auto Riksha was arrested. It is stated that on the basis of the information given by the driver of the said Auto Riksha, the Applicant has been arrayed as an accused in the said crime.

4. It is stated that issue of applicability of Section 328 of the IPC in the such cases is pending before the Hon'ble Supreme Court. Be that as it may, apart from the statement of the co-accused there is no prima facie material to show that the Applicant was in any way involved in transporting the contraband. The Applicant was granted interim bail on 02/02/2023.

5. Learned APP states that the Applicant has reported to the Investigating Officer and has co-operated with the investigation. In such circumstances, no case is made out for custodial interrogation. Hence, the application is allowed on the following terms and conditions:-

(i) In the event of arrest of the Applicant in C.R.

No.5 of 2023 registered with Kasturba Police Station, Mumbai, the Applicant shall be released on bail on furnishing PR bonds in the sum of Rs.25,000/- with one or two sureties to the like amount;

(ii) The Applicant shall report to the concerned Investigating Officer as and when required by the Investigating Officer;

(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.)