

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

ANTICIPATORY BAIL APPLICATION NO. 438 OF 2023

Tausif Hissankuddin Khan	...Applicant
vs.	
The State of Maharashtra	...Respondent

**ALONGWITH
ANTICIPATORY BAIL APPLICATION NO. 439 OF 2023**

Razique Hissamuddin Khan	...Applicant
vs.	
The State of Maharashtra	...Respondent

**ALONGWITH
ANTICIPATORY BAIL APPLICATION NO. 440 OF 2023**

Abdulla Hissamuddin Khan	...Applicant
vs.	
The State of Maharashtra	...Respondent

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

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 Applicants 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.*

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

*Vs. The State of Maharashtra*² and other Connected matters has protected the Petitioners subject to the direction to co-operate the 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. These three applications are filed by the respective Applicants in C.R. No. 15 of 2023 registered with Nijampura Police Station on 25/01/2023. It is for the offence punishable under Sections 328, 188, 272, 273 of the Indian Penal Code and Sections 26(2) and 27(2) and 59 of the Food and Safety Act.

6. The sum and substance of the allegation is that Gutkha and Panmasala were stored for sale in contravention of the Government Notification and this happened on 24/01/2023 and they were stored at two places in Nijampura. The F.I.R. is lodged against five persons. All these Applicants are three amongst them.

7. The Police have already seized the Contraband articles and their description is given in the F.I.R.. It consists of in all twelve different properties.

8. In all this, I do not think their custodial interrogation is required. Hence interim protection granted earlier can be confirmed.

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

Hence the following Order is passed:-

- (i) The order dated 10/02/2023 is confirmed.
- (ii) They are directed to co-operate the Police as and when required.

9. Accordingly, all Anticipatory Bail Applications are disposed of.

[S. M. MODAK, J.]