

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
ANTICIPATORY BAIL APPLICATION NO. 731 OF 2023

Pankaj Bansilal Gandhi ...Applicant

Versus

The State of Maharashtra ...Respondent

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Mr. Tushar Sonavane i/b Mr. Prashant Hagare for the Applicant.
Mr. Amit Palkar, APP for the State.

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CORAM : N.R. BORKAR, J.
DATED : 10 MARCH 2023

P.C. :-

. This is an application filed under Section 438 of the Code of Criminal Procedure, 1973 for anticipatory bail.

2. The applicant is apprehending his arrest in Crime No. 15 of 2023 registered at Khadki Police Station, Pune for the offences punishable under Sections 188, 272, 273, 328 r/w 34 of the Indian Penal Code and Sections 26(2)(a), 31, 26(2)(e), 30(2)(a) of the Food and Safety Standards Act, 2006.

3. I have heard the learned counsel for the applicant and the learned APP for the respondent-State.

4. On 11 January 2023, the co-accused- Rajaram Bishnoi was intercepted and he was found in possession of Gutkha packets (Prohibited Tobacco Products). During the course of investigation, it was found that the said co-accused had purchased the said Gutkha packets from the present applicant.

5. The learned counsel for the applicant submits that except offence punishable under Section 328 of IPC, all other offences are bailable. It is submitted that this Court has held that mere possession, storage or sale of Gutkha packets would not attract Section 328 Of the IPC. It is submitted that considering the facts and circumstances, the applicant be released on bail.

6. On the other hand, the learned APP submits that considering the nature of offence the applicant may not be granted anticipatory bail.

7. This Court has held that mere possession or sale of Gutkha products would not attract Section 328 of the IPC and the said issue is still pending before the Hon'ble Supreme Court. Considering the overall facts and as there are no other criminal antecedents, I am inclined to release the applicant on anticipatory bail. Hence, the following order is passed:

- (i) Application is allowed.
- (ii) In the event of arrest of applicant in Crime No. 15 of 2023 registered at Khadki Police Station, Pune for the offences punishable under Sections 188, 272, 273, 328 r/w 34 of the Indian Penal Code and Sections

26(2)(a), 31, 26(2)(e), 30(2)(a) of the Food and Safety Standards Act, 2006, he shall be released on bail on furnishing PR bond in the sum of Rs. 25,000/- with one or two sureties in the like amount.

(iii) The applicant 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.)