

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

ANTICIPATORY BAIL APPLICATION NO. 841 OF 2023

Rambilash Banarasi Yadav

...Applicant

vs.

The State of Maharashtra

...Respondent

Mr.V.V.Tare Patil a/w Mr.Sachin N. Nangare i/b. Mr.Anup Lahoti –
Advocates for Applicant.

Mr.H.J.Dedhia – APP for the Respondent-State.

CORAM : S. M. MODAK, J.

DATED : 22ND JUNE 2023

P. C. :

1. Heard learned Advocate for Applicant and learned APP.
2. The FIR is registered at Pelhar Police Station – District : Palghar on 13th December, 2022. There are four persons named in the FIR. The allegation is that the Police have searched the premises on 13th December, 2022 and found prohibited articles amounting to Rs.3,01,331 and also found prohibited articles of Rs.7,67,244/- in the room of one Mehrum Ali. In all four persons were arrested. Their names are given in the remand report dated 14th December, 2022 (Page No.37). They are as follows :-

- (i) Manoj Balkrushna Gupta
- (ii) Ambavi Kesa Patel
- (iii) Janardan Rajkumar Gupta
- (iv) Ajay Chotelal Yadav

During investigation, it is disclosed that the present Applicant has supplied those articles.

3. It is true that Division Bench of this Court in case of ***Anand Ramdhani Chaurasia and Anr. V/s. State of Maharashtra***¹ and Division Bench (Aurangabad Bench) in case of ***Ganesh Pandurang Jadhao and Anr. V/s. The State of Maharashtra***² have held that unless the seized articles are administered, the provisions of Section 328 of IPC cannot be invoked. It is also true that this view is the subject matter before Hon'ble Supreme Court in case of ***The State of Maharashtra and Ors. V/s. Anand Ramdhani Chaurasia and Anr.***³
4. Considering the role alleged against the Applicant, I do not find that his custodial interrogation is required. Already the prohibited article is seized. Hence, order :-

ORDER

- (i) Application is allowed.
- (ii) In case of an arrest in connect with C.R.No. 1055 of

¹ 2019 SCC Online Bom 1857

² Writ Petition No.1027 of 2015 : 15th October, 2020 : Bombay High Court (Bench at Aurangabad)

³ Special Leave Petition (Criminal) Diary No.8224 of 2020 : 31st August, 2020 : Supreme Court

2022 registered with Pelhar Police Station – District : Palghar for the offences punishable under Sections 328, 188, 273 read with 34 of IPC and Sections 26(2)(iv) and 30(2)(a) of Food Safety and Standards Act, the Applicant - Rambilash Banarasi Yadav be released on furnishing personal bond and surety bond of Rs.25,000/-.

- (iii) Applicant is directed to give attendance to Pelhar Police Station – District : Palghar on Monday and Thursday from 10.00 to 12.00 noon till filing of chargesheet.
- (iv) In case of breach of any of the conditions, the bail of the Applicant is liable to be cancelled after notice.

- 5. Application is disposed of in the aforesaid terms.
- 6. These are my *prima facie* observations. Let the learned trial Court need not be influenced by them.
- 7. All the parties to act on an authenticated copy of this order.

[S. M. MODAK, J.]