



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

ANTICIPATORY BAIL APPLICATION NO. 2138 OF 2023

Rehan Abu Salim Khan

...Applicant

vs.

The State of Maharashtra

...Respondent

Mr.Rohan Chauhan i/b. Mr.Kushal Mor – Advocate for Applicant.

Mr.S.R.Agarkar – APP for Respondent – State.

Mr.R.P.Alhat – Head Constable – Nizampura Police Station.

CORAM : S. M. MODAK, J.

DATED : 17TH AUGUST 2023

P. C. :

1. Heard learned Advocate for the Applicant and learned APP Officer from Nizampura Police Station is present.
2. The officers of Food and Drug Administration has conducted a raid on shop belonging to the Applicant. They have found the prohibited pan masala, tobacco, jarda etc., which is banned by the Government as per Notification dated 15th July, 2022. The shop No.7 was sealed and when they were about to inspect shop No.5, the Applicant ran away. The offence is under Sections 188, 272, 273, 328 of Indian Penal Code, 1860 [“IPC”] as well as under Sections

26(2)(i), 3(1)(zz)(iv), 30(2)(a), 27(3)(d), 27(3)(e) and 59 of the Food Safety and Standards Act, 2006. It is true that a Division Bench of this Court has observed that in such cases, the provisions of Section 328 of IPC cannot be invoked. However, this view is challenged before the Hon'ble Supreme Court and this view is stayed. Even otherwise, subject to cooperation, protection from arrest is granted.

3. In this case, already the prohibited articles are seized. His custodial interrogation is not required. Hence, order :-

O R D E R

- (i) In case of an arrest in connection with C.R. No. 223 of 2023 registered with Nijampura Police Station – Thane City for the offences punishable under Sections 188, 272, 273, 328 of IPC and Sections 26(2)(i), 3(1)(zz)(iv), 30(2)(a), 27(3)(d), 27(3)(e) and 59 of the Food Safety and Standards Act, the Applicant – Rehan Abu Salim Khan be released on furnishing personal bond and surety bond of Rs.25,000/-.
- (ii) He is directed to give attendance to Nijampura Police Station – Thane City on 24th, 31st August and 1st September, 2023 from 10.00 to 12.00 noon and thereafter, as and when required.
- (iii) Applicant not to threaten the Prosecution witnesses or to allure them in any manner.
- (iv) In case of breach of any of the conditions, the bail of the Applicant is liable to be cancelled after notice.

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

[S. M. MODAK, J.]