

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
ANTICIPATORY BAIL APPLICATION NO. 3261 OF 2022

Mohamad Tanvir Mustufamiyan Shaikh ...Applicant

Versus

The State of Maharashtra ...Respondent

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Mr. Rajesh More for the Applicant.

Mr. S.S. Hulke, APP for the State.

Mr. Rajendra Bamble, HC, Pimpri Chinchwad Commissioner Office,
Present.

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CORAM : N.R. BORKAR, J.

DATED : 16 JANUARY 2023

P.C. :-

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

2. The applicant is apprehending his arrest in Crime No. 1115 of 2022 registered at Chakan police station for the offences punishable under Sections 188, 272, 273, 328 read with 34 of the Code of Criminal Procedure.

3. This Court on 23 November 2022 passed the following order:

“1. This is an application for pre-arrest bail filed by the aforesaid Applicant apprehending his arrest in Crime No.1115 of 2022 registered with Chakan Police Station, Pimpri- Chinchwad for the offences punishable under Sections 188, 272, 273, 328 r/w 34 of the IPC.

2. Heard Mr. Rajesh More, learned counsel for the Applicant and Mr. M.G. Patil, learned APP for the State. I have perused the records and considered the submissions advanced by the learned counsel for the respective parties.

3. *Accusations against the Applicant are that he had supplied Gutkha to co-accused Sujit Khivansara, accused No.2. On 10/07/2022 the vehicle transporting said Gutkha was intercepted. Gutkha was seized and the driver was arrested.*

4. *It is stated that the issue regarding applicability of Section 328 in such cases is pending before the Hon'ble Supreme Court. Charge sheet has already been filed. Other accused are already released on bail.*

5. *Considering the above facts and circumstances, the Applicant is granted interim bail till the next date of hearing on the following terms and conditions:-*

(i) In the event of arrest of the Applicant in Crime No.1115 of 2022 registered with Chakan Police Station, Pimpri-Chinchwad the Applicant shall be released on interim bail on furnishing PR bonds of Rs.20,000/- with one or two sureties to the like amount; (ii) The Applicant shall report to the Investigating Officer for a period of four days from 28/11/2022 between 11.00 a.m. to 2.00 p.m. and thereafter as and when directed by the investigating officer.

(iii) 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. *Stand over to 07/12/2022."*

4. The learned APP has not disputed that issue of applicability of Section 328 of IPC is still pending before the Hon'ble Supreme Court. There are no other criminal antecedents. Considering the overall facts and circumstances of the case, I am inclined to allow present application.

(i) Interim order passed by this Court by order dated 23 November 2022 is hereby confirmed.

(ii) Application is disposed of.

(N.R. BORKAR, J.)