



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

BAIL APPLICATION NO.3345 OF 2023

1. MOSIM SHARIF SHAIKH	
2. SACHIN PRALHAD GAIKWAD	..APPLICANTS
VS.	
THE STATE OF MAHARASHTRA	..RESPONDENT

Mr. Mangesh M. D. Patel a/w Mr. Hritik K. Phapale, Ms. Ragini R. Dhandrut, for the applicant.
Ms. Rutuja Ambekar, APP for the State.
PSI- P.S.Bodade, Kasa police station is present.

CORAM : M. S. KARNIK, J.

DATE : OCTOBER 31, 2023.

P.C. :

1. Heard learned counsel for the applicants and learned APP for the State.
2. This is an application for bail in respect of the offence punishable under sections 328, 188, 272, 273, 34 of the Indian Penal Code, 1860 ('IPC', for short) and under sections 26(2), 27, 23, 26(2)(iv) and 30(2)(a) of the Foods Safety and Standards Act, 2006 registered on 04/10/2023 vide C.R. No.155 of 2023 with Kasa police station, District – Palghar.
3. The applicants were arrested by Kasa police station on

05/10/2023. The applicants who are 2 accused were found transporting Gutkha in Swift Desize Car having number MH-43-BK-861. It is alleged that the car was transporting banned Pan-Masala and Gutkha. The car belongs to the applicant no.1. Applicant no.1 was working as a police constable. Learned APP opposed the application for bail. Learned APP submitted that the applicant had put up a board of 'Police' on his car. Learned APP submitted that the conduct of the applicant no.1 disentitles him from being enlarged on bail atleast till the charge-sheet is filed.

4. Except section 328 of IPC, all other offences alleged against the applicants are bailable. So far as section 328 of IPC is concerned, whether the accusations of the present nature are covered within the meaning of section 328 of IPC is pending consideration before the Hon'ble Supreme Court. The contraband has been recovered. Though the investigation is in progress, further custody of the applicants in my opinion is not necessary in the facts and circumstances of the present case. The applicants undoubtedly will co-operate with the investigation. So far as the applicant no. 2 is concerned, he was in the car along

with the applicant no.1 and it is alleged that both the accused were responsible for transportation of Gutkha. No criminal antecedents are reported against the applicants. Hence, the following order :-

ORDER

- (a) The application is allowed.
- (b) The applicant no.1-Mosin Sharif Shaikh and applicant no. 2- Sachin Pralhad Gaikwad in connection with C.R. No. 155 of 2023 registered with Kasa Police Station shall be released on bail on their furnishing P.R. Bond of Rs.25,000/- each with one or more sureties in the like amount.
- (c) The applicants shall attend the investigating officer of Kasa police station once a week on every Sunday of the month between 10.00 a.m. and 1.00 p.m. till the charge-sheet is filed and thereafter once in a month on every first Monday between 10.00 a.m. and 12.00 noon till the trial concludes.
- (d) The applicants shall not directly or indirectly make any inducement, threat or promise to any person acquainted with the facts of the case so as to dissuade him from disclosing the facts to Court or any Police Officer. The applicants shall not tamper with evidence.
- (e) On being released on bail, the applicants shall furnish

their contact numbers and residential addresses to the investigating officer and shall keep him updated, in case there is any change.

(f) The applicants shall attend the trial regularly. The applicants shall co-operate with the investigation and shall not seek unnecessary adjournments.

(g) The applicants shall not tamper with the prosecution process.

(h) The applicants shall surrender their passports, if any, to the investigating officer.

(i) Needless to mention that it is always open for the competent authority to initiate disciplinary proceedings against the applicant no.1 in accordance with law.

5. The application is disposed of.

(M. S. KARNIK, J.)