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

ANTICIPATORY BAIL APPLICATION NO.3356/2022

SATISH ANKUSH KAMBLE ..APPLICANT
VS.
THE STATE OF MAHARASHTRA ..RESPONDENT

Mr. R. S. Pachundkar for the applicant.
Mr. S. H. Yadav, APP for State.
PSI D. H. Asbe, Pandharpur City Police Station.

CORAM : M. S. KARNIK, J.

DATE : JANUARY 17, 2023.

P.C. :

- 1.** Heard learned counsel for the applicant and learned APP for the State.
- 2.** This is an application for pre-arrest bail in respect of First Information Report (FIR) No.0547/2022 registered with City Police Station, Pandharpur, for the offence punishable under Sections 188, 272, 273, 328 read with 34 of the Indian Penal Code, 1860 (hereafter "the IPC", for short) read with 3, 26(2)(i), 26(2)(iv), 27(3) (e) and 59 of the Food Safety and Standards Act, 2006.
- 3.** By an order dated December 20, 2022, this Court

while granting interim protection observed thus: -

“Heard the learned counsel for the Applicant and the learned APP for the Respondent-State.

2. This is an application for pre-arrest bail in connection with C.R. No. 547 of 2022, registered at City Police Station, Pandharpur, under Sections 188, 272, 273 and 328 read with Section 34 of the Indian Penal Code and Sections 3, 26(2)(i), 26(2) (iv), 27(3)(e) and 59 of the Food Safety and Standards Act.

3. It is alleged that the Applicant was found in transporting prohibited articles and contravened the order issued by the State of Maharashtra.

4. Learned counsel for the Applicant submitted that the role of the present Applicant is that he is the owner of the said vehicle, in which the alleged prohibited articles, while transporting, were found. He submitted that the alleged muddemal was already seized from Accused Nos. 1 and 2. Investigation is almost complete. The co-accused who were found in possession of the prohibited articles, were already enlarged on bail.

5. Learned APP submitted that the Applicant had provided his vehicle to transport the prohibited articles like Gutka, Mava, etc. The offence is serious.

6. In the backdrop of the aforesaid nature of the accusation and material on record, the matter warrants consideration, till the entitlement of the Applicant for pre-arrest bail is considered, after providing an opportunity to

the prosecution, it may be expedient to protect the liberty of the Applicant. Hence, the following order:

ORDER

- a) Issue notice to Respondent, returnable on 17th January, 2023.
- b) The learned APP waives service of notice on behalf of Respondent-State.
- c) In the meanwhile, in the event of the arrest of the Applicant in C.R. No. 547 of 2022, registered at City Police Station, Pandharpur, he be released on bail on furnishing a P.R. Bond in the sum of Rs.25,000/- and one or two sureties in the like amount.
- d) The Applicant shall cooperate with the investigation and attend the City Police Station, Pandharpur, on every Saturday from 10:00AM to 1:00PM, till the next date.
- e) The Applicant shall not tamper with the prosecution evidence and/or give threat or inducement to any of the prosecution witnesses."

4. Learned counsel for the applicant invited my attention to the order passed by the Additional Sessions Judge, Pandhrpur while releasing the co-accused Ashok Bhikaji Vairage on bail. The relevant portion of the order passed by the Additional Sessions Judge reads thus: -

"6. If F.I.R. is perused, it reveals that it is registered on

26.08.2022 at 15.03 hours by Prashant Kuchekar, Food Safety office, Food and Drugs Office, Solapur alleging that, on 26.08.2022 at about 11.30 hours to 13.00 hours, he alongwith panch witness Sunil Abhagrao checked the seized muddemal and person. The accused found with prohibited articles gutaka, mava, scented bitternut etc. which is prohibited in Maharashtra State by government. So, he lodged report with City Police Station, Pandharpur against accused.

7. From perusal of F.I.R. and other papers, it found that accused found in transporting prohibited articles and contravened the order issued by State of Maharashtra. In which except for offence punishable U/s.328 of I.P.C. all are bailable offences and triable by Magistrate. Alleged muddemal is already seized from accused. Allegations upon him is of transporting prohibited articles. It is contention of the advocate for the accused that offence U/s.328 of I.P.C. does not attract in this matter. But at this stage, it is not necessary to go to the roots of the matter and it can be very well considered at the time of trial.

8. From perusal of police papers it appears that the alleged muddemal is already seized. Therefore, further presence of accused is not warranted for detail investigation. The alleged offence is not punishable with life imprisonment or death. He is permanent resident of given address. Investigation is almost complete. He is in custody since 26.08.2022. So, there is no point to keep him in the custody for further period. Accused is ready to abide all conditions. Apprehension shown by prosecution

about the pressurizing on prosecution witnesses will be safeguarded by imposing certain conditions. So, under such circumstances, application is deserves to be allowed.”

5. It is thus seen that the entire muddemal is seized. The allegation against the applicant is that the vehicle in question was owned by him. The muddemal was not found in his possession. The same has already been seized. The Sessions Court has observed that the investigation is almost complete. In this view of the matter, the custodial interrogation of the applicant is not necessary. The applicant, however, must co-operate with the investigation. There are no criminal antecedents reported against the applicant. Hence the following order.

ORDER

(a) In the event of arrest in connection with FIR No.0547/2022 registered with City Police Station, Pandharpur,, applicant- shall be released on bail on furnishing P.R. bond to the extent of Rs.15,000/- with one or more sureties in the like amount.

(b) The applicant shall report to the concerned police

station on 20th and 21st January, 2023, between 11.00 a.m. and 1.00 p.m. and thereafter, as and when called.

(c) The applicant shall not directly or indirectly make any inducement, threat or promise to any person acquainted with facts of case so as to dissuade him from disclosing the facts to Court or any Police Officer and should not tamper with evidence.

6. The application is disposed of.

(M. S. KARNIK, J.)