

Mr. Mahendra Sandhyanshiv for the Applicant.
Mr. P.H. Gaikwad Patil, APP for the State.

CORAM : N.R. BORKAR, J.
DATED : 3 JANUARY 2023

P.C. :-

This is an application filed under Section 438 of the Code of Criminal Procedure, 1973 for anticipatory bail.

2. The applicant is apprehending his arrest in Crime No. 73 of 2022 registered at Ayesha Nagar Police Station, Nashik for the offences punishable under Sections 328, 272, 273, 188 r/w. 34 of Indian Penal Code.

3. According to the prosecution, on 10 December 2022, the son of the present applicant, who is juvenile in conflict with law, was apprehended on the basis of secret information and was found in possession of Gutkha packets (prohibited tobacco products) and he was also found to be selling the said Gutkha packets.

4. I have heard the learned Counsel for the applicant and the

learned APP for the State.

5. The learned Counsel for the applicant submits that Section 328 of Indian Penal Code would not attract in the facts and circumstances of the present case. It is submitted that nothing is to be recovered at the instance of the present applicant and therefore, his custodial interrogation is not necessary. It is submitted that considering the facts and circumstances of the case the applicant may be released on anticipatory bail.

6. The learned APP for the State submits that the applicant is involved in one more crime of similar nature. It is submitted that the present applicant was owner of seized Gutkha packets and his son was selling the Gutkha packets at his instance. It is submitted that the applicant, therefore, may not be released on anticipatory bail.

7. From the facts and circumstances of the case, the only inference which can be drawn is that present applicant is the owner of seized Gutkha packets. The applicant is involved in one more crime of similar nature. Considering these facts, I am not inclined to grant anticipatory bail to the present applicant. In the result, the following order is passed :

(i) Application is rejected.

(N.R. BORKAR, J.)

KANCHAN
PRASHANT
DHURI

Digitally signed
by KANCHAN
PRASHANT
DHURI
Date:
2023.01.04
14:29:31 +0530