

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
NAGPUR BENCH : NAGPUR**

CRIMINAL APPLICATION (ABA) NO. 12 OF 2023

Sk. Sattar Sk. Jabbar vs. The State of Maharashtra

Office notes, Office Memoranda of
Coram, appearances, Court's orders
or directions and Registrar's orders.

Court's or Judge's Orders.

Mr. S. G. Varshani, Advocate for applicant.
Mr. N. R. Rode, APP for respondent State.

CORAM : BHARATI DANGRE J.

DATE : 23/01/2023

The applicant was apprehending arrest in Crime No.863/2022 registered with Police Station Arni, District Yavatmal is already protected by an order dated 09/01/2023.

The subject crime invoked offences punishable under Sections 188, 272, 263, 328 of the Indian Penal Code and Sections 26(2)(1), 27(3)(e), 30(2)(a) and 59 of Food Safety Act.

2. The applicant is alleged to be supplier of Tobacco and Gutkha to the co-accused. On the raid being conducted by the Food and Safety Inspector, the subject crime was registered. In the order dated 09/01/2023, the question spelt out was whether, by

selling Gutkha or pan masala whether applicant can be held to be guilty of administering or causing to be taken a stupefying, intoxicating substance contemplated under Section 328 of the IPC.

3. There appears to be some conundrum about legal position as revolving around Section 3 and 8 of IPC. However, in case of ***Naushad Idris Khan vs. State of Maharashtra*** arising from decision of Bombay High Court, the Apex Court has granted protection from arrest.

4. Hence, in the wake of the aforesaid legal position prevailing and revolving around under Section 328 of the IPC, and since it is informed that the applicant has reported to the Investigating Officer, I deem it necessary to confirm the order dated 09/01/2023, subject to the stipulation that the applicant shall continue to render his co-operation to the Investigating Officer.

5. Application is disposed of.

[BHARTI DANGRE J.]