

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
NAGPUR BENCH : NAGPUR
CRIMINAL APPLICATION (ABA) NO. 233/2023
Amit Ramdin Rathod .vs. State of Maharashtra

Office Notes, Office Memoranda of Coram,
appearances, Court's orders of directions
and Registrar's orders

Court's or Judge's orders

Mr. H. A. Biherani, Advocate for applicant.
Mr. I. Damle, A.P.P. for non applicant-State.

CORAM : ANIL L. PANSARE, J.
DATE : APRIL 25, 2023.

Learned A.P.P. for the non applicant-State has tendered his reply across the bar. It is taken on the record.

2. Learned A.P.P., invited my attention to paragraph no.5 of the reply, wherein it is stated that the investigation is almost complete and charge-sheet is likely to be filed within four weeks and that the custody of the applicant is not required. He however submits that the applicant may be directed to attend the Police Station.

3. On 11.04.2023, following order was passed:

“Heard.

2. The applicant is apprehending arrest in Crime No.383/2023 registered with Police Station, Paratwada, District Amravati for the offences punishable under Section 188, 272, 273, 328 of the Indian Penal Code (for short, ‘IPC’) and under Section 59 of the Food Safety and Standards Act.

3. Learned counsel for the applicant submits that except Section 328 of the IPC all other offences are bailable. He further submits that the accusation against the applicant is that he has sold contraband article to the co-accused namely Irshad. The contraband article has been recovered from

Irshad, who has been released on bail by the learned Sessions Court vide order dated 13.03.2023.

4. *Learned APP submits that this is a second crime committed by the applicant, to which, learned counsel for the applicant submits that the applicant has been released on bail in the said crime as well.*

5. *Section 328 of the IPC reads thus:*

“Causing hurt by means of poison, etc., with intent to commit an offence – Whoever administers to or causes to be taken by any person any poison or any stupefying, intoxicating or unwholesome drug, or other thing with intent to cause hurt to such person, or with intent to commit or to facilitate the commission of an offence or knowing it to be likely that he will thereby cause hurt.”

6. *Considering the accusation made against the applicant, prima facie, it appears that the allegations as regards administration of the poisonous substance or to cause someone to take poisonous substance with an intent to cause hurt or to facilitate the commission of an offence are not made out. It is so because the victim, if any, is unknown. Merely because the applicant has allegedly sold the contraband, one cannot attribute him the guilt that he sold the contraband for the purpose of administration to the unknown persons or knowing that it will be administered to the unknown persons with intent to cause them hurt. The prosecution will have to answer as to how guilt could be attributed to the Applicant against an unknown person.*

7. *Issue notice to the non applicant, returnable on 25.04.2023.*

8. *Learned APP waives service of notice on behalf of the non applicant-State.*

9. *In the meantime, interim relief in the following terms:*

(i) *In the event of arrest in Crime No.383/2023 registered with Police Station, Paratwada, District Amravati for the offences punishable under Section 188, 272, 273, 328 of the Indian Penal Code (for short, 'IPC') and under Section 59 of the Food Safety and Standards Act, applicant – Amit S/o Ramdin Rathod, be released on bail on he furnishing PR Bond in the sum of ₹25,000/- with one surety in the like amount.*

(ii) *The applicant shall attend Police Station, Paratwada, District Amravati on 13.04.2023, 18.04.2023 and 21.04.203 between 4.00 p.m. to 6.00 p.m. and shall co-operate in the investigation.*

(iii) *The applicant shall not directly or indirectly make any inducement, threat or promise to any person acquainted with the facts of the case, as also shall not tamper with the evidence.”*

4. In view of the reply filed by the non applicant, there appears no reason why interim relief should not be confirmed. The same is, accordingly, confirmed with a direction that the applicant shall cooperate in the investigation and shall attend the Police Station as and when called, till filing of the charge-sheet.

With above observations, the application is disposed of.

(Anil L. Pansare, J.)