



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
NAGPUR BENCH, NAGPUR.

CRIMINAL APPLICATION (ABA) NO. 604 OF 2023

Kadar Gaffar Musani Vs. State of Maha., thr. PSO, PS Pulgaon Dist. Wardha
WITH

CRIMINAL APPLICATION (ABA) NO. 609 OF 2023

Amin Rafik Shaha vs. State of Maha. Thr. PSO, PS, Pulgaon Dist. Wardha
WITH

CRIMINAL APPLICATION (ABA) NO. 612 OF 2023

Ahefaz Iqbal Memon vs. State of Maha. Thr. PSO, PS, Pulgaon Dist Wardha

Office Notes, Office Memoranda of Coram,
appearances, Court's orders of directions Court's or Judge's orders.
and Registrar's Orders.

Mr S.J. Mohta Advocate for the applicant in ABA
No.604/23, Mr. Imran Deshmukh, Advocate for the
applicant in ABA Nos.609/2023 and 612/2023.
Mrs Mrunal Barbade APP for the State

CORAM : G.A. SANAP, J.

DATE : OCTOBER 17, 2023.

(1) Heard finally with consent of learned
Advocates for the parties.

(2) The three applications arise out of Crime
No.647/2023 registered at Pulgaon Police Station District
Wardha for the offences punishable under Sections 188,
272, 273 and 328 of the Indian Penal Code, 1860 and
under Sections 26(1), 26(2)(iv), 27(3)(e), 30(2)(a),
3(1) (zz)(iv) and 59 of the Food Safety and Standards Act,
2006.

3. The applicants apprehend their arrest in this crime and therefore they have moved for anticipatory bail.

4. Learned Advocate for the applicants/accused submitted that after seizure of the alleged contraband articles, accused Nos.1 and 2 disclosed the involvement of the present accused/applicants in the commission of crime. It is submitted that except the statement of co-accused there is no evidence against the applicants. Learned Advocates further submitted that during the pendency of these applications they have co-operated the Investigating Officer. It is submitted that considering the nature of the crime their custodial interrogation is not necessary.

5. Learned APP submitted that in order to go to the root of crime and find out the source of procurement of the contraband articles, applicants' custodial interrogation is necessary. Learned APP submitted that at this stage, the submission advanced by the learned Advocates for the applicants that they have been roped in on the basis of the statement of the co-accused cannot be tested on merits. Learned APP submitted that considering the serious nature of the crime and huge quantity of

contraband recovered, the applicants are not entitled for protection from arrest.

6. It is the case of the prosecution that on 04.08.2023 the Food Safety Officer had conducted the raid at the house of accused Nos. 1 and 2- Prem Ahuja and Ramesh Ahuja at Hinganghatfail, Pulgaon. Three vehicles loaded with contraband articles were intercepted and in the said vehicles the contraband articles such as scented tobacco and Gutaka weighing around 371 KG worth Rs.2,91,894/- was recovered. Accused No.1 during investigation disclosed that he had procured the contraband articles from the applicants. Therefore, their names have been added in the above crime.

7. The contraband articles such as scented tobacco and Gutaka is not allowed to manufacture as well as sell in the State of Maharashtra. It is therefore, obvious that accused must have procured the same from other States. The accused/applicant No.5- Kadar has criminal antecedents. Two crimes bearing Nos.340/2021 and 448/2021 for the identical offences have been registered against him. It is apparent on the face to record that quantity of seized contraband by applying any standard is

huge quantity. The police would be required to go to the root of crime. The medium to go to the root of the crime is the custodial interrogation.

8. In the facts and circumstances, the learned Additional Sessions Judge was not inclined to grant protection to the accused/applicants from arrest. In my view considering the nature of crime which is directly related to the public health unwarranted sympathy and indulgence cannot be granted. The police cannot be denied an opportunity to go to the root of the crime.

9. In the facts and circumstances, I am of the view that no case has been made out by the applicants for granting them protection from arrest.

10. Accordingly, applications are rejected. Interim protection granted earlier to them stands vacated.

11. The Applications stand disposed of accordingly.

(G. A. SANAP, J.)