



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

CRIMINAL APPLICATION (ABA) NO. 662/2023

Mahammad Amin Yusuf Jakhura V/s State of Maharashtra

Office Notes, Office Memoranda of
Coram, appearances, Court's Orders
or directions and Registrar's order

Court's or Judge's Order

Mr. S.S. Sheikh, counsel for the applicant.
Mr. Harshal Futane, APP for the State.

CORAM : URMILA JOSHI-PHALKE, J.
DATED : 28/11/2023.

1. By this application, the applicant is seeking pre-arrest bail in the event of his arrest in respect of crime No. 738/2023 registered with Darwha Police Station, District Yavatmal for the offences punishable under Sections 188, 272, 273 and 328 of the Indian Penal Code along with Sections 26(2)(i), 27(3)(e), 30(2)(a) and 59 of the Food Safety and Standards Act, 2006.

2. The accusation against the present applicant is that the informant received the secret information, that some persons are transporting the Scented Nuts, Pan-masala, and Scented Tobacco for sale and for using as a stupefying substance. Accordingly, the raid was conducted and the articles worth of Rs. 23,760/- were seized. As per the allegation, at the relevant time, the vehicle was driven by the present applicant.

3. The applicant has denied all these allegations, and it is submitted by the learned counsel Mr. S.S. Sheikh appearing for the applicant, that the applicant is implicated merely on suspicion. Though the investigating agency claims that the applicant was driving the vehicle, at the relevant time, he was not arrested. Now, nothing has to be recovered from the present applicant. The investigation is already completed, and the articles are already seized, further custody of the present applicant is not required, and prays for release on bail.

4. The learned APP vehemently submitted that the articles were seized from the vehicle, which was driven by the present applicant, and his custodial interrogation is required to ascertain the source of supply. Hence, the application deserves to be rejected.

5. Having heard learned counsel for the applicant and learned APP for the State, perused the investigation papers. It reveals that, though it is alleged by the investigating agency that the applicant was driving the vehicle, the applicant was not arrested at the relevant time. Admittedly, the stock is already seized by the Police. As far as the applicability of Section 328 of the Indian Penal Code is concerned, the issue is pending before the Hon'ble Apex Court. Considering that

custodial interrogation of the present applicant is not required as the entire material is already seized and as per the submission of the learned APP, his custodial interrogation is required to ascertain the source of supply. His physical custody is not required, he can be interrogated by the investigating agency, though he is not in custody.

6. Thus, in view of the above referred peculiar facts and circumstances of the case, I am of the view that, criminal application deserves to be allowed. Accordingly, I proceed to pass following order.

A] The application is allowed.

B] The applicant-Mahammad Amin Yusuf Jakhura in the event of his arrest in connection with Crime No. 738/2023 registered with Darwha Police Station, District Yavatmal Tq. and Dist. Yavatmal for the offences punishable under Sections 188, 272, 273 and 328 of the Indian Penal Code along with Sections 26(2) (i), 27(3)(e), 30(2)(a) and 59 of the Food Safety and Standards Act, 2006 is hereby released on anticipatory bail on executing PR. Bond of Rs. 25,000/- with one solvent surety in the like amount.

- C] The applicant shall attend the concerned Police Station once in a week between 10.00 a.m. to 01.00 p.m., and shall co-operate with the investigating agency till filing of the charge-sheet.
- D] The applicant shall furnish his cellphone number and address with his address proof.
- E] The applicant shall not induce, threat and pressurize the any witnesses who are connected with the alleged crime.

The criminal application is **disposed of** accordingly.

[URMILA JOSHI-PHALKE, J]