



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

CRIMINAL APPLICATION (ABA) NO. 696/2023

Jaisukhlal S/O Ambaram Thakar And Another.
Vs
State Of Mah. Thr. Pso Ram Nagar Ps Chandrapur, Tq. And
Dist. Chandrapur

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

Court's or Judge's Order

Mr. S.A. Mohta, counsel for the applicants.
Ms M.A.Barbde, APP for the State.

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

1. Present application under Section 438 of the Code of Criminal Procedure filed by the applicants for grant of anticipatory bail in connection with Crime No. 1103/2023 registered with Ram Nagar Police Station, Chandrapur, Tq. and Dist. Chandrapur for the offences punishable under Sections 188, 273, 328 of the Indian Penal Code and Sections 30(2)(a), 26(2)(i), 26(2)(iv), 3,4 and 59 of the Food Safety and Standard Act, 2006.
2. The applicants are apprehending their arrest at the hands of Police as crime is registered against the present applicants on the basis of a report lodged by the P.S.I. Harshal Vinayak Acre on an allegation that he received secrete information that some persons are transporting the Scented Tobacco, Pan-masala and

Scented Tobacco illegally worth of Rs. 6,48,600/-. Accordingly, he conducted the raid, and the articles were seized from the Wagon-R Car bearing No. MH-05/AX-1633.

3. It is submitted by the learned counsel for the applicant, that the present applicants are not at all concerned with the alleged offence. Merely on suspicion, his name is included in the First Information Report on the basis of statement of the co-accused. As already stated, the articles are seized, and custodial interrogation of the present applicants is not required, he be protected by granting anticipatory bail. Learned counsel further submitted that whether Section 328 of the Indian Penal Code is applicable or not is already pending before the Hon'ble Apex Court. In view of that, applicants be released on anticipatory bail.

4. The learned APP strongly opposed the present application on the ground that a huge quantity is seized from the vehicle and the applicants are connected with the said articles. The co-accused disclosed the names of the present applicants during the investigation. Custodial interrogation of the present applicants is required and prayed for rejection of the application.

5. Having heard both the sides and perused the recitals of the FIR. Admittedly, at the relevant time,

present applicants were not present in the vehicle. His name is included on the basis of the statement of the cc-accused. Undisputedly, the issue regarding the applicability of Section 328 of Indian Penal Code is pending before the Hon'ble Apex Court. It is observed by this Court that in similar cases, the Co-ordinate Bench at Aurangabad granted pre-arrest bail whereas in some of the similar cases, it is denied at Principal Seat, and the impugned orders are subjudised before the Hon'ble Apex Court. The Hon'ble Apex Court granted ad-interim bail on 06/01/2022 in those Special Leave Appeals.

6. It is further observed that, in view of the pendency of the Special Leave Appeal No(s). 4101/2020 and other similar appeals, the ad-interim anticipatory bail was continued. During pendency of the above referred Special Leave Appeals, many applications came to be filed in respect of the crime for the similar offences and in all matters, ad-interim anticipatory bail was granted.

7. Thus, in view of the above referred peculiar facts and circumstances of the case, in the present case also considering the orders passed by the Hon'ble Apex Court, as there is no direct involvement in the alleged offence, nothing is to be recovered from the present applicants. The ad-interim protection granted to the

applicants deserved to be confirmed. Accordingly, I proceed to pass following order.

- A] The application is allowed.
- B] The ad-interim anticipatory bail granted by this Court on 02/11/2023 is confirmed.
- C] The applicants shall attend the concerned Police Station as and when their presence are required.

Criminal application stands **disposed of** accordingly.

[URMILA JOSHI-PHALKE, J]