



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

**CRIMINAL APPLICATION (ABA) NO. 760/2023**

Shaikh Azimoddin Shaikh Khamruddin

Vs

The State Of Mah. Thr. PSO PS Umarkhed Tq.Umarkhed Dist.Yavatmal

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

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Court's or Judge's Order

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Mr. R.M.Daga, counsel for applicant

Ms. D.I. Charlewar, APP for the non-applicant/State.

**CORAM : URMILA JOSHI-PHALKE, J.**  
**DATED : 08/12/2023.**

1] Heard.

2] While passing the order dated 29/11/2023, inadvertently it is mentioned as criminal application is allowed instead of mentioning that interim protection is granted to the present applicant.

3] In view of above, operative portion of clause [i] be deleted and corrected order be uploaded afresh.

4] By this application, the applicant is seeking pre-arrest bail in the event of his arrest in connection with Crime No.439/2023 registered with Police Station Umarkhed, District Yavatmal for the offences punishable under Sections 188, 272, 273 and 328 read with Section 34 of the Indian Penal Code

and Sections 26(2)(i), 27(3)(e), 30(2)(a) and 59 of the Food Safety and Standards Act.

4] Mr.R.M. Daga, learned counsel for the applicant submitted that the applicant is apprehending arrest at the hands of the police as crime is registered on 13/07/2023, on the basis of the report lodged by Mr. Amitkumar Shokumar wherein it is alleged that he is serving as Food Safety Officer. On 13/07/2023 he received the information from the Local Crime Branch, Yavatmal that some persons are transporting the scented gutkha, scented tobacco and pan masala in a huge quantity in the vehicle bearing No. MH-40 BF-4987. During the raid, the stock worth of Rs.31,27,920/- was found and two persons were arrested. The present applicant is included as an accused on the basis of the statement of the co-accused.

5] He submitted that nothing is to be recovered from the present applicant and except the statement of the co-accused, there is no other material to connect with the present applicant with the alleged offence. In view of that, present applicant be protected by granting ad-interim protection.

6] Learned APP strongly opposed the application on the ground that from the investigation

it was revealed the co-accused is the owner of the seized vehicle. It is further revealed that looking to the large quantity of the contraband articles, the custodial interrogation of the present applicant is required to ascertain the nexus with the other co-accused involvement in the crime and prays for rejection of the application.

7] After hearing both the sides and on perusal of the recitals of the record, it reveals that the investigating agency has applied Section 328 of the IPC. The contraband articles are not seized from the physical possession of the present applicant. At this stage, only material available against the present applicant is the statement of the co-accused, indisputably the issue regarding the applicability of the Section 328 of the Indian Penal Code is pending before the Hon'ble Apex Court. Considering the material collected during the investigation and physical custody of the present applicant is not required the application deserves to be allowed. Accordingly, I proceed to pass following order.

[i] Criminal application is **allowed**.

[ii] In the event of arrest in Crime No. 439/2023 registered with Police Station Umarkhed, District Yavatmal for the

offence punishable under Sections 188, 272, 273 and 328 read with Section 34 of the Indian Penal Code and Sections 26(2) (i), 27(3)(e), 30(2)(a) and 59 of the Food Safety and Standards Act, applicant – Shaikh Azimoddin, be released on anticipatory bail on furnishing P.R. bond in the sum of Rs.25,000/- with one surety in the like amount.

- [iii] The applicant shall attend concerned police station, as and when required for the investigation purpose and shall cooperate in the investigation.
- [iv] The applicant shall furnish his cell phone number and address with the address proof.
- [v] The applicant shall not induce threat or promise to any witnesses, who are connected with the alleged crime.

Criminal application is **disposed of** accordingly.

**[URMILA JOSHI-PHALKE, J]**