



**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD**

ANTICIPATORY BAIL APPLICATION NO. 61 OF 2024

SHADABKHAN IMTIYAJKHAN PATHAN
VERSUS
THE STATE OF MAHARASHTRA AND ANOTHER

...
Mr. Pankaj A. Bharat, Advocate for Applicant
Mr. S.P. Sonpawale, APP for Respondents/State
...

CORAM : NITIN B. SURYAWANSHI, J.

DATE : 20th MARCH, 2024

PER COURT :

1. Applicant apprehends arrest in C.R. No.1006/2023, registered with Shevgaon Police Station, Ahmednagar, for offence punishable under Sections 188, 272, 273, 328 r/w 34 of the Indian Penal Code.
2. FIR is lodged by Pradeep Parashuram Pawar, Food Safety Officer, alleging that on 19/10/2023 he along with other police staff visited Samarth Pan Center, Shevgaon and inspected the same. He found that owner of said pan shop Raosaheb Gopinath Kesbhat was not having license to run said shop. 95 Mava packets of 20 grams each, worth Rs.1900/-, were found during inspection, which were seized.
3. Heard learned advocate for applicant and learned APP for respondents/State. Perused the investigation papers.

4. Learned advocate for applicant submits that name of applicant is not mentioned in the FIR and during custodial interrogation of co-accused his name is disclosed. Therefore, he may be granted relief of anticipatory bail.

5. Learned APP strenuously opposed the application.

6. Except Section 328 all other sections are bailable. There appears substance in the contention of applicant that Section 328 is not attracted in present case and the said issue is already pending before the Apex Court.

7. Pendency of issue of applicability of Section 328 before Apex Court is not disputed by learned APP. Learned APP tried to place reliance on the decision of this Court in Nagesh Rajshekhar Mense Vs. State of Maharashtra, reported in 2023 (1) Bom.C.R.(Cri.) 572.

8. Learned advocate for applicant pointed out that common order passed by learned Single Judge in the above matter is challenged in the Apex Court and the Apex Court in the meantime has granted interim protection in favour of accused therein. Accused Raosaheb is released on regular bail by the Sessions Court, Ahmednagar. In this view of the matter, applicant has made out case for grant of relief of anticipatory bail.

9. In the result, application is allowed by confirming interim protection granted to applicant by order dated 15/01/2024.

10. Till filing of charge-sheet, applicant shall attend concerned police station as and when called by investigating officer and shall co-operate in the investigation. Applicant shall not tamper prosecution evidence. Applicant shall not indulge in similar offences.

(NITIN B. SURYAWANSHI, J.)