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IN THE HIGH COURT OF JUDICATURE OF BOMBAY
BENCH AT AURANGABAD

ANTICIPATORY BAIL APPLICATION NO.69 OF 2024

Sanjay Gurnomal Matta

APPLICANT

VERSUS

The State of Maharashtra

RESPONDENT

.....
Mr. Satish S.Manale, Advocate for the applicant
Mr. R. B. Dhaware, APP for respondent - State
.....

[CORAM : NITIN B. SURYAWANSHI, J.]

DATE : 22nd MARCH, 2024

ORDER :

1. Applicant apprehends arrest in C.R. No.357 of 2023, registered with Songir Police Station, District - Dhule, for offence punishable under Sections 188, 272, 273, 328 read with 34 of the Indian Penal Code and Section 3, 26 (2), (iv), 27 (3) (d), 27 (3) (e), 30 (2) (a), 59 (i) of the Food Safety and Standards Act, 2006.
2. FIR is lodged by Kishor Himmatrao Baviskar, Food Safety Officer, Food and Drug Administration, Dhule, stating that accused Rahematulla was found possessing and transporting prohibited material, namely Rajnivas Panmasala, Rajashri and Vimal Panmasala and tobacco. He was arrested and he disclosed that said prohibited articles were taken by him from Sanjay Matta (applicant) and shivprakash Gupta.

3. Heard learned advocate for applicant and learned APP for respondents - State. Perused the investigation papers.
4. According to prosecution, Food and Safety Officer lodged the FIR that prohibited articles including panmasala, scented tobacco, etc. worth Rs.6, 64, 140/- is seized in presence of panch witness and spot panchanama is also prepared.
5. 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.
6. 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**.
7. 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. In this view of the matter, applicant has made out case for grant of relief of anticipatory bail.

8. In the result, application is allowed by confirming interim protection granted to applicant by order dated 17th January, 2024.

9. 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]
JUDGE