



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

ANTICIPATORY BAIL APPLICATION NO. 103 OF 2024

SANJAY MURLIDHAR YEOLE

VERSUS

THE STATE OF MAHARASHTRA AND ANOTHER

...

Ms. Falguni Kulkarni, Advocate h/f Mr. Chaitanya C. Deshpande,
Advocate for Applicant

Mr. K.K. Naik, APP for Respondents/State

...

CORAM : NITIN B. SURYAWANSHI, J.

DATE : 15th APRIL, 2024

PER COURT :

1. Applicant apprehends arrest in C.R. No.379/2023, registered with Nizampur Police Station, Dist. Dhule, for offence punishable under Sections 188, 272, 273, 285, 328 of the Indian Penal Code and Sections 26(2)(iv), 23, 27(3)(d), 27(3)(e), 30(2)(a) and 59 of the Food Safety and Standards Act, 2006 and Section 7 of the Essential Commodities Act.

2. FIR is lodged by Police Constable Sunil Arun Ahire, stating that on 28/12/2023, informant and other officials effected raid at Tejas Provisions Grocery Shop at Vhergaon Phata, on account of receiving secret information about storage of certain Gutka and prohibited items like pan masala for the purpose of sell. On inspection, they found prohibited article pan Masala along with four plastic drums containing total 60 Litres diesel and 20 bottles containing petrol, worth Rs.16,373/-. The same was seized from said

shop. Applicant is owner of the said shop.

3. Heard learned advocate for applicant and learned APP for respondents/State. Perused the investigation papers.

4. It appears from the FIR and investigation papers that prohibited articles are already seized and nothing is to be recovered from applicant. No useful purpose would be served by remanding applicant in custody.

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. 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 05/03/2024.

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.)