



IN THE HIGH COURT OF JUDICATURE OF BOMBAY
BENCH AT AURANGABAD

ANTICIPATORY BAIL APPLICATION NO. 113 OF 2024

Ashok Gorakh Gite

....Applicant

VERSUS

The State Of Maharashtra And AnotherRespondents

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Mr. S.E. Shekade, Advocate for applicant.

Mr. C.V. Bhadane, APP for respondents.

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[CORAM : NITIN B. SURYAWANSHI, J.]

DATE : 21st MARCH, 2024

ORDER :

1. Applicant apprehends arrest in C.R. No.355/2023, registered with Neknoor Police Station, Dist. Beed, for offence punishable under Sections 272, 273, 328 r/w 34 of Indian Penal Code of the Indian Penal Code.

2. FIR is lodged by Vishal Kshirsagar, Police Constable, Police Station, Neknoor, alleging that as per secret information he along with other staff effected raid in the premises of house of co-accused Shailesh Shinde at Limbaganesh, Taluka & Dist. Beed. During the raid, co-accused Shailesh was found in possession of Gutkha and other like material work Rs. 1,63,200/- with intent to sell it in the market. Said material is

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prohibited in the State of Maharashtra and it is unsafe to public health. On inquiry, it is revealed that co-accused Shailesh has purchased said prohibited material from applicant.

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

4. Applicant is stated to be supplier of Gutkha. Contraband articles are recovered from accused Shailesh Shinde. 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.

5. 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***.

6. 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.

7. In the result, Anticipatory Bail Application No. 113 of 2024 is allowed.

8. In the event of arrest of applicant- Ashok Gorakh Gite in connection with C.R. No.355/2023, registered with Neknoor Police Station, Dist. Beed, for offence punishable under Sections 272, 273, 328 r/w 34 of the Indian Penal Code, he be released on executing Personal Bond and Surety Bond of Rs. 15,000/- with one surety in the like amount.

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, J.]