



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

ANTICIPATORY BAIL APPLICATION NO. 266 OF 2024

VITTHAL SAMBHAJIRAO JADHAV

VERSUS

THE STATE OF MAHARASHTRA AND ANOTHER

...

Mr. Satej S. Jadhav, Advocate for Applicant

Mr. C.V. Bhadane, APP for Respondents/State

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CORAM : NITIN B. SURYAWANSHI, J.

DATE : 20th MARCH, 2024

PER COURT :

1. Applicant apprehends arrest in C.R. No.30/2024, registered with Nilanga Police Station, Latur, for offence punishable under Sections 188, 272, 273, 328 of the Indian Penal Code and Section 59 of the Food Safety and Standards Act, 2006.

2. FIR is lodged by Vitthal Satavaji Londhe, Food Safety Officer, Latur, stating that Police Inspector of Nilanga Police Station, by communication dated 24/01/2024, informed that he and his squad found that applicant was selling contraband articles in Vitthal grocery shop at Hadaga Naka, Nilanga, and they have seized said contraband articles and kept it at Nilanga Police Station. Informant was requested to take further action in that regard, therefore, informant on 25/01/2024 visited Nilanga Police station and inspected said contraband articles worth Rs.45,299/- in presence of panch witness. Informant also prepared inspection report and

memorandum of panchanama. Applicant is absconding in present matter.

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 worth Rs.45,299/- is seized in presence of panch witness. Spot panchanama is also prepared. Applicant did not appear even after notice was issued to him.

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 27/02/2024.

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, J.)