



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

ANTICIPATORY BAIL APPLICATION NO. 299 OF 2024

Ravindra Kalusing Dumkul

... Applicant

VERSUS

The State Of Maharashtra
And Another

... Respondents

.....
Mr. Gajendra D. Jain, Advocate for Applicant
Ms. S.S. Joshi, APP for Respondents – State

.....

[CORAM : NITIN B. SURYAWANSHI, J.]

DATE : 24th APRIL, 2024

ORDER :

1. Applicant apprehends arrest in Crime No. 0250 of 2023, registered with Taloda Police Station, District-Nandurbar for offences punishable under sections 188, 272, 273, 328 of the Indian Penal Code and under sections 26(2), 26(4) and 30(2)(a) of the Food Safety and Standards Act.

2. FIR is lodged by Tejabsing Padvi, Police Naik, Local Crime Branch, Nandurbar alleging that on receipt of secret information, they raided Hariom Sweet shop situated in Teli Galli of Taloda town. Vishal Mahendra Nagre was present in the shop and prohibited articles like Ghutka, Pan Masala and scented tobacco worth Rs.39,576/- was seized from the shop. Though inquiry was made with Vishal Nagre as to from where

he has procured the said stock, he has not disclosed anything. During investigation, applicant's name was disclosed by Vishal Nagre alleging that he was procured the stock from applicant.

3. Heard learned advocate for applicant and learned APP for respondents - State. Perused the Investigation papers.

4. Applicant claims to be innocent and he has no shop as is alleged in the FIR. He is an agriculturist and has no concern with the alleged crime.

5. Perusal of record indicates that applicant does not possess any shop or establishment and/or applicant is not indulging in sale of contraband articles. Statements of villagers, wherein applicant is residing, shows that applicant does not own any shop or applicant is not doing any business selling contraband articles.

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.

9. 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.

10. In the result, application is allowed by confirming interim protection granted to applicant by order dated 27.02.2024.

11. 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**