



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

ANTICIPATORY BAIL APPLICATION NO. 330 OF 2024

BHAVIN TULSIDAS KANANI

VERSUS

THE STATE OF MAHARASHTRA AND ANOTHER

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Mr. Pramod C. Mayure, Advocate for Applicant
Mr. S.P. Sonpawale, APP for Respondents/State

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CORAM : NITIN B. SURYAWANSHI, J.

DATE : 21st MARCH, 2024

PER COURT :

1. Applicant apprehends arrest in C.R. No.37/2024, registered with Taloda Police Station, Dist. Nandurbar, for offence punishable under Sections 188, 273, 328 of the Indian Penal Code.
2. FIR is lodged by Tukaram Fosa Pawara, Police Constable, stating that on 09/01/2024, Rahulkumar Pawar, Police Inspector, Taloda Police Station, orally directed him along with other police staff to raid the house of Bhausahab Jaysing Girase and verify if there are contraband articles. According informant along with other police staff raided the house of Bhausahab Girase. In the kitchen at backside of the house, contraband articles i.e. Vimal Pan Masala Gutkha, scented tobacco, etc. worth Rs.76,210/- were found. On inquiry with Bhausahab, it is revealed that he has purchased said contraband articles from applicant Bhavini with intent to store and sell it in the market.

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

4. Learned advocate for applicant submits that applicant is innocent and he is falsely implicated in present crime. Applicant has grocery shop at village Nimbhora, Kukarmunda, Gujarat State and has no concern with accused Bhausahab Girase. Hence, applicant may be granted discretionary relief of anticipatory bail.

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. Co-accused has disclosed name of applicant in present crime. 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.
9. In the event of arrest of applicant in connection with C.R. No.37/2024, registered with Taloda Police Station, Dist. Nandurbar, for offence punishable under Sections 188, 273, 328 of the Indian Penal Code, applicant be released on executing Personal Bond and Surety Bond of Rs.15,000/- with one surety in the like amount.
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 and he shall not indulge in similar offences.

(NITIN B. SURYAWANSHI, J.)