



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

ANTICIPATORY BAIL APPLICATION NO. 406 OF 2024

AKASH BALAJI KOTGIRE

VERSUS

THE STATE OF MAHARASHTRA AND ANOTHER

...

Mr. Sachin D. Kunte, Advocate for Applicant

Mrs. S.S. Joshi, APP for Respondents/State

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CORAM : NITIN B. SURYAWANSHI, J.

DATE : 15th APRIL, 2024

PER COURT :

1. Applicant apprehends arrest in C.R. No.78/2024, registered with Ahmedpur Police Station, Dist. 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 Ahmedpur Police Station, by communication dated 03/02/2024, informed that he and his squad found that applicant has stored contraband articles at his house and they have seized said contraband articles and kept it at Ahmedpur Police Station. Informant was requested to take further action in that regard, therefore, informant on 03/02/2024 visited Ahmedpur Police station and inspected said contraband articles worth Rs.1,05,350/- 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 contraband articles including panmasala, scented tobacco and other tobacco worth Rs.1,05,350 /- 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 21/03/2024.

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.)