



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

60 ANTICIPATORY BAIL APPLICATION NO. 558 OF 2024

Pathan Rizwan Khan Mohammad Shabbir Khan

VERSUS

The State of Maharashtra and another

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Advocate for Applicant : Mr. Ramesh R. Imale

APP for Respondents: Mrs. P.V. Diggikar

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CORAM : SHIVKUMAR DIGE, J.
DATED : 22nd JULY, 2024.

PER COURT :-

1. The applicant apprehends arrest in connection with crime No. 28 of 2024 registered with Harsul Police Station, district Aurangabad, for the offences punishable under sections 188, 273, 328 of Indian Penal Code and under Sections 26(1), 27(3)(d), 27(3)(e), 30(2)(a) and 59 of Food Safety and Standard Act, 2006.

2. It is the prosecution's case that on 17.2.2024 the police received a secret information that prohibited food items are being transported from Hanuman Mandir in Harsul area to Fatema Masjid in vehicle No. MH-43-AF-6182. Accordingly, the police and Food Safety Officer had laid a trap and intercepted one four wheeler vehicle of above referred registration number. It is alleged that accused No.1 Shaikh Naim Shaikh Abdul Aziz was driving the said

vehicle. In the search of said vehicle, the police found prohibited food items i.e. packets of Heera Pan Masala, packets of Royal and scented tobacco, total worth Rs.1,43,325/-. During the interrogation accused Shaikh Naim told the police that he had purchased those prohibited food articles from co-accused Babasaheb Jadhav. In the interrogation, it is alleged that Babasaheb Jadhav brought the said articles from the applicant.

3. It is the contention of the learned counsel for the applicant that the applicant has been falsely implicated in this case. The allegations against the applicant are that the prohibited food items were purchased from the applicant. Learned counsel further submitted that the police have already seized the prohibited items. Considering the allegations against the applicant, his custodial interrogation is not required and hence requested to allow the application.

4. It is the contention of the learned APP that the Gutkha pan Masala is recovered from the accused. It was purchased from the applicant. The investigation is required to be done from whom the applicant had purchased the said Gutkha. The custodial interrogation of the applicant is required. Hence requested to reject the application.

5. I have heard both the learned counsel. Perused the F.I.R. and the police papers produced on record. The name of the applicant is not mentioned in the F.I.R. On the statement of co-accused the name of the applicant is roped in this crime. The Gutkha is seized by the police. Considering the allegations against the applicant his custodial interrogation is not required. Hence I pass the following order :-

ORDER

- (i) The application is allowed.

- (ii) The interim anticipatory bail granted to the applicant vide order dated 08.04.2024 stands confirmed on the same terms and conditions with following modification :-
 - (a) the applicant shall attend the concerned police station as and when required by the Investigating Officer.

(SHIVKUMAR DIGE, J.)

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