



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

917 BAIL APPLICATION NO. 661 OF 2024

Ashok Babasaheb Jawale

..APPLICANT

-VERSUS-

The State of Maharashtra

..RESPONDENT

Advocate for Applicant : Mr. Gaurav M. Parkar

APP for Respondent/State : Mr. Satish A. Gaikwad

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CORAM : SANJAY A. DESHMUKH, J.
DATED : 26th APRIL, 2024.

PER COURT :-

1. As per directions contained in order dated 23rd April, 2024, Mrs. Shubhangi Uttam More, the Police Sub-Inspector, Tofkhana Police Station, Ahmednagar is present. Her appearance is discharged.

2. The applicant is seeking bail under section 439 of the Criminal Procedure Code, 1973 (for short, "Cr.P.C."). The applicant has been arrested in connection with crime No.290 of 2024 registered with Tofkhana Police Station, Ahmednagar, for the offence punishable under sections 188, 272, 273, 328 and 34 of the Indian Penal Code.

3. It is averred in the report that the applicant, who is tempo driver, went to Gujrath and while coming back he carried the

contraband articles i.e. scented tobacco. The trap was laid, when the Investigating officer got secrete information and the said scented tobacco of 35 plastic pockets, 10 Kg. Per pocket, worth Rs.8,30,000/- was found and seized. The alleged Tempo was also seized. The mobile hand set of the applicant was seized. The applicant was arrested on 2nd March, 2024 at Nagar-Manmad road, near Savedi Naka, Savedi, Ahmednagar. Accordingly, the panchanama was drawn and report was lodged.

4. The learned advocate for the applicant submitted that there is absolutely no evidence to constitute an offence under section 328 of the Indian Penal Code. The applicant is driver. He has no criminal antecedents. Rest of the sections are bailable. The applicant is falsely implicated in the said crime. He lastly prayed to allow the application.

5. The learned APP for the respondent-State has strongly opposed the application and submitted that the applicant is involved in the serious crime. Considering the quantum of scented tobacco, this application deserves to be rejected. Further the co-accused are not yet arrested. Investigation is in progress. It is lastly prayed to reject the application.

6. Perused the papers of investigation, particularly the report and seizure panchanama of the articles. The statement of truck owner shows that this applicant made phone call to him and

intimated that he is bringing some articles i.e. parts of the vehicle of Tata Company, therefore, he permitted him to carry it. At this stage, the meticulous consideration of evidence is not proper. To constitute the offence punishable under section 328 of the Indian Penal Code, there is absolutely no evidence. Rest of the sections are bailable. The applicant has no criminal antecedents. Custody of the applicant is not necessary. Considering all these aspects, the applicant deserves to be released on bail on the principle that bail is rule and jail is exception. The application, therefore, deserves to be allowed on certain conditions. Hence, the following order.

O R D E R

- I. Application is allowed.
- II. The applicant in connection with crime No.290 of 2024 registered with Tofkhana Police Station, Ahmednagar, for the offence punishable under sections 188, 272, 273, 328 and 34 of the Indian Penal Code be released on bail on furnishing personal bond of Rs.50,000/- with one surety of the like amount on following conditions:-
 - a) The applicant shall not pressurize the prosecution witnesses and shall not tamper with the prosecution evidence in any manner.
 - b) The applicant shall not commit the similar type of crime in future.

III. If any breach of the above conditions is noticed by the trial Court, the trial Court is at liberty to cancel the bail granted to this applicant without further reference to this Court.

(SANJAY A. DESHMUKH, J.)

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