



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

976 ANTICIPATORY BAIL APPLICATION NO. 1413 OF 2024

PREMNATH TUKARAM MORE

VERSUS

THE SUPERINTENDENT OF POLICE AND ANOTHER

...

Advocate for Applicant : Mr. More P. P.

APP for Respondent/State: Mr. G. O. Wattamwar

...

CORAM : ARUN R. PEDNEKER, J.

DATE : 17th DECEMBER, 2024

PER COURT:

1] Heard learned counsel for the applicants and the learned APP for the respondent-State.

2] The applicant is apprehending arrest in connection with Crime No.418 of 2024, dated 20.03.2024, registered at Gandhi Chowk Police Station, District Latur, for the offences punishable under Sections 328, 272, 273, 188 of IPC .

3] This court by an interim order dated 21.08.2024 protected the applicant.

Today, the learned APP submits that the applicant should not be protected and there are total of 11 antecedents against the applicant, maximum of which relates to the 328 IPC and some relates to bodily offences. One offence relates to 302 IPC and 306 IPC. However, the applicant is in bail in all the offences. The applicability of Section 328 IPC to seizure of gutkha and tobacco products is doubted by this court.

4] This Court, by order dated 14.11.2024 passed in ABA No.1670 of 2024 at para no. 3 has observed as under :

*“3] Considering the judgment of this Court in the case of **Gaurav Jayantbhai Hapani Vs. The State of Maharashtra in Anticipatory Bail Application No.3406 of 2022, decided on 19.01.2023** and also the order passed by the Hon’ble Supreme Court in the case of **Eknath Bhalchandra Patil Vs. The State of Maharashtra in Petition (s) for Special Leave to Appeal (Cri.) No. 8698/2023, decided on 28.07.2023**, wherein in identical fact situation, the Hon’ble Supreme Court so also this Court in the above noted judgments has observed that applicability of Section 328 of Indian Penal Code [123 of the Bhartiya Nyaya Sanhita] is doubted in the case of seizure of tobacco and tobacco products including Gutkha and anticipatory bail has been granted. In the instant case also, except Section 123 of the Bhartiya Nyaya Sanhita, all other offences are bailable and the same is not disputed by the learned APP and the matter pertains to seizure of tobacco and tobacco products including Gutkha.”*

5] The law stated in the aforesaid order would also apply to the instant case.

6] Considering the same and that the interim protection is granted to the applicant by order dated 21.08.2024 and that the applicant has thereafter cooperated with the investigation, the earlier protection granted by order dated 21.08.2024 stands confirmed on following conditions:

i] The applicant shall attend the police station as and when called by the Investigating Officer.

ii] The applicant shall not tamper with the evidence of the prosecution in any manner. He shall not influence the informant, witnesses and other persons concerned with the case.

iii] The applicant shall co-operate with the investigation and also in the proceedings before the trial Court.

7] In the event, the applicant violates any of the conditions specified in this order, it shall be liable to be cancelled.

8] It is also clarified that the observations made in this order are limited to the disposal of the present anticipatory bail applications and the trial Court shall proceed further in the matter without being influenced by the observations made hereinabove.

9] The applications stand disposed of.

[ARUN R. PEDNEKER, J.]

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