



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

ANTICIPATORY BAIL APPLICATION NO. 1590 OF 2023

VISHAL ASHOKKUMAR KARDA
VERSUS
THE STATE OF MAHARASHTRA

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Mr. Surendra V. Suryawanshi, Advocate for Applicant
Mr. K. K. Naik, APP for Respondent/State

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CORAM : NITIN B. SURYAWANSHI, J.

DATE : 15th APRIL, 2024

PER COURT :

1. Applicant apprehends arrest in C.R. No.393/2023, registered with Chalisgaon Police Station, Dist. Jalgaon, for offence punishable under Sections 188, 272, 273, 328 of the Indian Penal Code and Sections 26(2)(d), 3(1)(zz)(iv), 27(3)(d), 27(3)(e) and 59 of the Food Safety and Standards Act, 2006.

2. FIR is lodged by Sharad Madhukar Pawar, Food Safety Officer, Latur, stating that on 10/08/2023 at about 05:15 p.m. informant and other officials effected raid on the godown of applicant situated at MIDC Area, Chalisgaon, on account of receiving secret information about storage of certain Gutka without pass and permit. On inspection, they found Pan Masala and scented tobacco, total worth Rs.22,41,800/- and seized it in presence of panchas. On initial inquiry, they came to know that said godown and seized material is of the co-accused.

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.22,41,800 /- is seized in presence of panch witness. Spot panchanama is also prepared.

5. It appears from the FIR and investigation papers that name of applicant is disclosed by co-accused who is named in the FIR. Surprisingly, though name of applicant is disclosed by co-accused, for reasons best known to investigating officer, no raid is conducted at the premises of applicant. Accused named in the FIR is already released on regular bail. No useful purpose would be served by remanding applicant in custody, as nothing would be found from him due to passage of time.

6. 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.

7. 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**.

8. 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.

9. In the result, application is allowed by confirming interim protection granted to applicant by order dated 04/10/2023.

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. Applicant shall not indulge in similar offences.

(NITIN B. SURYAWANSHI, J.)