



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

ANTICIPATORY BAIL APPLICATION NO. 1757 OF 2024

Harshal Vijaykumar Patni

VERSUS

The Commissioner Of Police And Another

- Mr. A. N. Barhate Patil, Advocate for the Applicant
- Mr. P. P. Dawalkar, APP for the Respondent/State

CORAM : R.M. JOSHI, J

DATE : OCTOBER 15, 2024

PER COURT :

1. Applicant apprehends arrest in connection with with C.R. No. 25/2024 registered with Jinsi Police Station, Dist. Aurangabad for the offences punishable under Sections 328, 273, 188 of the Indian Penal Code and Sections 26(1), 26(2)(iv), 27(2)(d), 27(3)(e), 30(2)(a) and 59 of the Food Safety and Standards Act and Section 7(2) of the Cigarette and Other Tobacco Products (Prevention of Advertisement, Trade and Commerce, Business, Production, Supply and Distribution) Rules, 2003.

2. Learned Counsel for the Applicant has drawn attention of the Court to the interim order dated on

27.09.2024 by this Court in ABA No. 1626/2024 to the co-accused. He has also placed reliance on the judgment of the Hon'ble Supreme Court in Ram Nath vs. The State of Uttar Pradesh and Others, Criminal Appeal No. 472/2012 wherein it is held that the provisions of the FSSA would override the provisions of the penal code.

3. There cannot be any dispute with regard to the law laid down by the Hon'ble Supreme Court in the above judgment. The only question before this Court is as to whether the second bail application can be entertained without there being any change in circumstances. Perusal of the order passed in ABA No. 772/2024 clearly indicates that this Court has taken into consideration the investigation report and has observed in the said order in paragraph 4 as under:

4. Merely because names of applicants do not appear in First Information Report, they are not entitled to get protection from arrest. During investigation their involvement is seen in this crime. Applicants are on bail in similar offence earlier and which makes it clear that the applicants are misusing the liberty granted by the Court and taking disadvantage of the same to commit further crimes. Only for this reason applicants are not entitled for

any protection from arrest. Hence, applications stand dismissed.

4. Anticipatory bail of the Applicant was not rejected for any other reason but on the ground of his involvement is seen in the crime so also he is on bail in the similar offence and he has misused the liberty granted by the Court. In view of above, this Court finds no reason to take any different view. Merely because the co-accused is protected by interim order passed by this Court, the Applicant is not entitled to get pre-arrest bail.

5. In view of above discussion, application stands dismissed.

(R.M. JOSHI, J.)