



IN THE HIGH COURT OF JUDICATURE OF BOMBAY
BENCH AT AURANGABAD

117 BAIL APPLICATION NO. 2217 OF 2024

NIHAL MAJID KAZI
VERSUS
THE STATE OF MAHARASHTRA AND ANOTHER

...
Mr. Mohit R. Deshmukh – Advocate for Applicant
Mr. S.K. Shirse – APP for Respondents, State
....

CORAM : ARUN R. PEDNEKER, J.
DATE : 9th DECEMBER, 2024

PER COURT :

1. Heard learned counsel for applicant and the learned APP for the respondents, State.
2. The applicant is seeking bail as he was arrested on 03.11.2024 in connection with Crime No. 316 of 2024, dated 03.11.2024, registered with Police Station Murum, Dharashiv, Dist. Dharashiv, for the offences punishable under Sections 123, 223, 274 and 275 of the Bhartiya Nyaya Sanhita, 2023.
3. 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."

4. The law stated in the aforesaid order would also apply to the instant case. It is informed that except Section 123 of the Bhartiya Nyaya Sanhita, all other offences are bailable.

5. In view of the above, the application is allowed in the following terms :

[a] The applicant shall be released on bail in connection with FIR No. 316 of 2024 dated, 03.11.2024, registered with Police Station Murum, Dharashiv, Dist. Dharashiv, on furnishing PR bond of Rs.20,000/- (Rupees Twenty Thousands only) with one or two sureties in the like amount to the satisfaction of the trial Court.

[b] The applicant, upon being released on bail, shall not contact the informant, in any manner whatsoever, during the pendency of the trial.

[c] The applicant shall co-operate with the trial Court and he shall attend each and every date, unless exempted by the trial Court, for reasons to be recorded in writing.

[d] The applicant shall not tamper with the evidence of the prosecution and he shall not influence the informant, witnesses and other persons concerned with the case.

[e] The applicant, upon being released on bail, shall place on record of the trial Court the details of his Contact Number and residential address with updates in case of any change.

6. Needless to say, in case of violation of any of the aforesaid conditions, the bail granted to the applicant shall be liable to be cancelled.

7. It is also clarified that the observations made in this order are limited to the disposal of the present bail application. The concerned Court shall proceed further in the matter without being influenced by the observations made hereinabove.

8. The application stands disposed of accordingly.

[ARUN R. PEDNEKER]
JUDGE