



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

ANTICIPATORY BAIL APPLICATION NO. 2047 OF 2023

FAYYAZ MAQSUD ISANI (MEMON)

VERSUS

THE STATE OF MAHARASHTRA

...

Ms. Sabahat T. Kazi, Advocate for Applicant

Mr. S.B. Jadhav, APP for Respondent – State

...

WITH

ANTICIPATORY BAIL APPLICATION NO. 211 OF 2024

BHAGWAN SHANA MALI

VERSUS

THE STATE OF MAHARASHTRA AND ANOTHER

...

Ms. Shoyab Shaikh, Advocate for Applicant

Mr. S.B. Jadhav, APP for Respondents – State

...

CORAM : NITIN B. SURYAWANSHI, J.

DATE : 07th FEBRUARY, 2024

PER COURT :

1. Applicants apprehend arrest in C.R. No.630/2023, registered with Shahada Police Station, Nandurbar, for offence punishable under Sections 188, 272, 273 and 328 of the Indian Penal Code and Sections 26(2)(iv) and 30(2)(a) of the Food Safety and Standards Act, 2006.

2. FIR is lodged by police constable Mukesh Omkarsingh Rathod alleging that he received secret information that contraband articles Gutka and Pan Masala are being transported in truck bearing No. MP-09-GG-0011, coming from Khetiya to Shahada. The

said truck was stopped and 16 big polythene bags containing pouches of banned Gutkha and Pan Masala worth Rs.9 lakhs were seized. During the course of interrogation of driver, names of applicants are disclosed as applicant Bhagwan Mali had called said contraband items and those were to be delivered to applicant Fayyaz Maqsud Isani.

3. Heard learned advocates for applicants and learned APP for State. Perused the investigation papers.

4. Investigating officer has failed to raid the premises of both applicants as their names are disclosed in the investigation. As on today except statement of driver who is accused in present crime, there is no material against applicants to consider their involvement in the crime. Learned advocate for applicants are right in stating that Section 328 is not applicable and applicability of the said section is *subjudice* before the Hon'ble Apex Court.

5. Considering the aforesaid circumstances, applicants custodial detention is not necessary. Both the applications are, therefore, allowed.

6. In the event of arrest of applicants Fayyaz Maqsud Isani (Memon) and Bhagwan Shana Mali, in connection with C.R. No.630/2023, registered with Shahada Police Station, Nandurbar, for offence punishable under Sections 188, 272, 273 and 328 of the

Indian Penal Code and Sections 26(2)(iv) and 30(2)(a) of the Food Safety and Standards Act, 2006, applicants be released on executing P.B. and S.B. of Rs.15,000 each, with one surety in the like amount.

7. Till filing of charge-sheet, applicants shall attend concerned police station on every Saturday and Sunday between 10:00 a.m. to 02:00 p.m. and co-operate in the investigation. Applicants shall not tamper prosecution evidence.

(NITIN B. SURYAWANSHI, J.)