



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

ANTICIPATORY BAIL APPLICATION NO. 2137 OF 2023

WASEEM KHAN SAMIULLA KHAN

VERSUS

THE STATE OF MAHARASHTRA AND ANOTHER

...

Mr. S.S. Thombre, Advocate for Applicant

Mr. K.K. Naik, APP for Respondents/State

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CORAM : NITIN B. SURYAWANSHI, J.

DATE : 15th APRIL, 2024

PER COURT :

1. Applicant apprehends arrest in C.R. No.585/2023, registered with Shivajinagar Police Station, Dist. Beed, for offence punishable under Sections 179, 188, 272, 273, 328 r/w 34 of the Indian Penal Code and Sections 26(2)(i), 26(2)(iv), 3(1)(zz)(iv), 27(3)(d), 27(3)(e), 59, 62 of the Food Safety and Standards Act, 2006.

2. Sandip Shivaji Devare, Food Safety Officer, has lodged the FIR alleging that, on receipt of secret information he along with other staff effected raid at Umar Traders and Pan Material, near Shantai Hotel, Jalna Road, Beed. During raid Gutka, pan masala and other prohibited articles worth Rs.10,950/- found in possession of the applicant for sale. During the procedure, applicant fled away from the spot.

3. Heard learned advocate for applicant and learned APP for respondents/State. Perused the investigation papers.

4. Prosecution has not brought anything on record to show that applicant is owner and possessor of the said pan shop. It is not acceptable that in spite of presence of raiding party applicant has managed to run away at the time of raid. No useful purpose would be served by remanding applicant to the custody.

5. 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.

6. 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**.

7. 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.

8. In the result, application is allowed by confirming interim protection granted to applicant by order dated 11/01/2024.

9. 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.)