

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION**

ANTICIPATORY BAIL APPLICATION NO. 1522 OF 2024

Shahnawaj Mansoor Pathan	...	Applicant
Versus		
State of Maharashtra	...	Respondent

Mr. Tushar Sonawane a/w Ms. Pooja Satpute for the Applicant.
Mr. Mayur S. Sonavane, APP for Respondent-State.

CORAM: MANISH PITALE, J.
DATE : 13th JUNE 2024

P.C. :

1. Heard learned counsel for the applicant and the learned APP for respondent-State.

2. The applicant has approached this Court apprehending arrest in connection with FIR No. 0105 of 2024 dated 13th April 2024, registered with MIDC Police Station, Sangli, for offence under Sections 188, 272, 273, 328 read with 34 of the Indian Penal Code (IPC) and Section 59 of the Food Safety and Standards Act, 2006 (FSSA).

3. The learned counsel for the applicant submits that insofar as Section 328 of the IPC is concerned, in a series of cases pending before the Supreme Court interim protection has been granted, as the issue as to whether in such circumstances Section 328 of the IPC can be invoked at all is pending consideration. The offences

under Sections 188, 272 and 273 of the IPC all are bailable and the only other offence registered against the applicant is under Section 59 of the FSSA. As regards the provisions of FSSA, reliance is placed on the judgment of Supreme Court in the case of ***Ram Nath v/s. The State of Uttar Pradesh & Ors., 2024 SCC OnLine SC 177***, particularly, paragraphs 25 to 27 thereof, to indicate that the provisions of FSSA override the provisions of the IPC.

4. On this basis, the learned counsel for the applicant submits that this Court may consider granting anticipatory bail to the applicant, as he undertakes to cooperate with the investigation.

5. The learned APP appearing for the respondent-State, opposes the prayer made in the present application, submitting that the investigation is at a nascent stage as the FIR has been registered recently on 13th April 2024.

6. The judgment of the Supreme Court in the case of ***Ram Nath v/s. The State of Uttar Pradesh & Ors.*** (supra) clearly lays down the proposition that the provisions of FSSA override the provisions of Sections 272 and 273 of the IPC. The offence under Sections 188, 272 and 273 of the IPC are bailable, which leave only the offence under Section 328 of the IPC.

7. The learned APP also does not dispute the fact that a number of cases are pending before the Supreme Court on the

question, as to whether Section 328 of the IPC can at all be invoked in such cases concerning procurement and sale of *Gutka*. In all such cases, the Supreme Court has granted interim protection to the accused persons. This Court is informed that hearing in the said cases is part-heard and the next date of hearing before the Supreme Court is 15th July 2024.

8. Considering the aforesaid material, this Court is of the opinion that the present application can be allowed, subject to appropriate conditions.

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

(a) In the event the applicant is arrested in connection with FIR No. 0105 of 2024 dated 13th April 2024, registered with MIDC Police Station, Sangli, he shall be released on bail on furnishing PR Bond of Rs.50,000/- and one surety in the like amount.

(b) The applicant shall remain present before the Investigating Officer on 20th and 21st June 2024 between 11:00 a.m. and 1:00 p.m. and thereafter, as and when required, till filing of the charge-sheet. The applicant shall cooperate with the Investigating Officer during the course of investigation.

(c) The applicant shall not tamper with the evidence of the prosecution in any manner. He shall not influence the informant, witnesses or any other person concerned with the case.

10. Needless to say, violation of any of the aforesaid conditions would make the applicant liable to face proceedings for cancellation of anticipatory bail. It is also clarified that the observations made in this order are limited to the question of grant of anticipatory bail to the applicant in the present application and that the trial Court shall proceed further, without being influenced by the observations made in this order.

11. The application is disposed of.

MANISH PITALE, J.

BIPIN DHARMENDER
PRITHIANI

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