

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

ANTICIPATORY BAIL APPLICATION NO. 177 OF 2023

Rambilash Banarasi Yadav

..Applicant

Versus

State of Maharashtra

..Respondent

Mr. Anup Lahoti for Applicant.

Ms. Mahalakshmi Ganapathy, APP for State/Respondent.

CORAM : SARANG V. KOTWAL, J.

DATE : 30 JANUARY 2024

P.C. :

1. The Applicant is seeking anticipatory bail in connection with C.R.No.837 of 2022, registered at Pelhar Police Station, Mira Bhayandar, on 03.10.2022, under section 328 of the Indian Penal Code and under sections 26(2), 4 and 30(2)(e) of the Food Safety and Standards Act, 2006 (hereinafter referred to as 'FSS Act').

2. Heard Mr. Anup Lahoti, learned counsel for the applicant and Ms. Mahalakshmi Ganapathy, learned APP for the State.

3. The F.I.R. is lodged by one police constable Pratap

Pachunde. He has stated that on 03.10.2022, the police officers of Pelhar police station received an information that two trucks were travelling from Gujarat towards Mumbai. They were carrying banned articles namely 'Gutka'. The police officers arranged to conduct raid to intercept those trucks. At about 12.15p.m. both the trucks were intercepted. They were driven by Abhishek Nimbalkar and Kumatkar. The search of those trucks was taken. There were different bags containing *jarda pan masala* and gutka. The banned articles were worth Rs.73,41,600/-. During the investigation, name of Raghvendra Jaswant Singh transpired. He had ordered some of the goods. He gave the name of the present applicant as the person who was getting those goods from one Arjunsingh for sale in Maharashtra. These are the allegations against the present applicant.

4. Learned counsel for the applicant submitted that, there is no cogent material against the applicant. Section 328 of the I.P.C. is not attracted. The applicant is falsely implicated in this case.

5. Learned APP opposed these submissions. She submitted that, the applicant has two more antecedents of a similar nature registered at Pelhar police station vide C.R.No.330 of 2021 and C.R.No.1055 of 2022. These offences are of the similar nature.

6. I have considered these submissions. As far as the applicability of Section 328 of the I.P.C. is concerned, this Court, vide the order dated 30.01.2024 passed in A.B.A.No.207 of 2024 has dealt with this issue. The observations in that order are squarely applicable to the facts and arguments on behalf of the applicant in the present case. There is definite material against the applicant. The offence is serious. The applicant's custodial interrogation is necessary. There are similar antecedents against him. Considering all these aspects, the applicant cannot be protected.

7. The application is rejected.

(SARANG V. KOTWAL, J.)