



**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
BAIL APPLICATION NO.398 OF 2024**

Avdheshkumar Shukarulal Pal

Avdesh Girijashankar Yadav

... Applicants

versus

The State of Maharashtra

... Respondent

Mr. Amit Icham, for Applicants.

Mrs. Geeta P. Mulekar, APP for State.

Mr. Vivek Vartak, API Kalwa Police Station present.

CORAM: N.J.JAMADAR, J.

DATE : 30 JANUARY 2024

P.C.

1. Heard the learned Counsel for the parties.

2. The applicants who are arraigned in C.R.No.637 of 2023 registered with Kalwa Police Station for the offences punishable under Sections 188, 272, 273, 328 read with 34 of the Indian Penal Code and Sections 26(2)(i), 3(1)(zz)(iv), 59, 26(2)(iv), 30(2)(a), 27(3)(d), 27(3)(3) of the Food Safety and Standards Act, 2006, have preferred this application to enlarge them on bail.

3. On 28 November 2023 the applicant No.1, who was at the wheel of the truck being No.RJ-14/CH-1311 and the applicant No.2 who was as a cleaner thereon, were found transporting Royal 1000 gutakha Dilbagh Plus Pan Masala and A Plus Chewing Tobacco in contravention of the provisions of the Food Safety and Standards Act, 2006. Police apprehended the applicants. Contraband articles were seized.

4. Learned Counsel for the Applicants submitted that except the offence punishable under Section 328, all the offences are bailable. It is doubtful whether in the circumstances of the present nature, the offence punishable under Section 328 of IPC can be said to have been prima facie made out. In any event, since the contraband articles have been seized, further detention of the applicants is not warranted.

5. Learned APP resisted the prayer for bail.

6. Evidently, the contraband articles have been seized. Investigation seems to have reached at an advanced stage. The applicants are in custody since 28 November 2023. Further detention of the applicants does not seem warranted to facilitate investigation. I am, therefore, inclined to exercise the discretion in favour of the applicants.

7. Hence, the following order :

ORDER

(i) The Application stands allowed.

(ii) The Applicants - Avdheshkumar Shukarulal Pal and Avdesh Girjiashankar Yadav be released on bail in C.R.No.637 of 2023 registered with Kalwa Police Station on furnishing a PR bond in the sum of Rs.30,000/- each and one or two sureties in the like amount to the satisfaction of the trial Court.

(iii) The applicants shall mark their presence before Kalwa Police Station on first Monday of every trimester in between 11 am to 1 pm for a period of two years or

till the conclusion of the trial.

(iv) The applicants shall not tamper with the prosecution evidence. The applicants shall not directly or indirectly make any inducement, threat or promise to any person acquainted with the facts of the case so as to dissuade him from disclosing the facts to Court or any police officer.

(v) On being released on bail, the applicants shall furnish his contact number and residential address to the investigating officer and shall keep him updated, in case there is any change.

(vi) The applicants shall regularly attend the proceedings before the jurisdictional Court.

(vii) The applicants shall not indulge in identical activities for which they have been arraigned in this case.

(viii) By way of abundant caution, it is clarified that the observations made hereinabove are confined for the purpose of determination of the entitlement for bail and they may not be construed as an expression of opinion on the guilt or otherwise of the applicant and the trial Court shall not be influenced by any of the observations made hereinabove.

Application disposed.

(N.J.JAMADAR, J.)

SSP

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