

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

ANTICIPATORY BAIL APPLICATION NO.1136 OF 2024

Rahul Subhash Madane	 Applicant
Versus	
The State of Maharashtra	 Respondent

Mr. Rupesh A. Zade, Advocate for the Applicant.
Mr. C.D. Mali, APP for the Respondent-State.

CORAM : SARANG V. KOTWAL, J.

DATE : 25th APRIL, 2024

P.C. :

1. The Applicant is seeking anticipatory bail in connection with C.R.No.85/2024 registered at Malegaon Police Station, District-Pune on 13.3.2024 under sections 328, 272, 273, 188 of IPC and under Section 26(2)(i), 26(2)(vi), 27(3)(d) and 59(iii) of the Food Safety and Standards Act, 2006 (for short, 'FSS Act').

2. Heard Mr. Rupesh Zade, learned counsel for the Applicant and Mr. C.D. Mali, learned APP for the Respondent-State.

3. The FIR is lodged by police constable Vaibhav Salave. He has stated that he along with others was present in the office of Sub-Divisional Police Officer at Baramati on 12.3.2024. PSI Waghmare told him that they had received a secret information that one Ganesh Madane was transporting articles viz gutakha from Phaltan to Baramati and that they were required to conduct a raid. The police officers made preparation to conduct raid. The police party went to the spot. At 4.45 p.m. a vehicle bearing No.MH42BF2258, mentioned in the information, was passing from that road. It was stopped. It was searched. It was found that said vehicle was carrying 64 gunny bags containing gutka and other banned articles worth Rs.5,85,500/-. It was seized. The articles were seized. A person from that vehicle was arrested. He took the police party to his house. One more vehicle bearing No.MH42QG8872 was parked near his house. Even that vehicle was searched. There were 106 gunny bags containing gutka and other banned articles worth Rs.5,33,500/-. Even those gunny bags were seized. The samples were drawn. Thus, in all contraband articles worth Rs.16,19,000/- were seized. On this basis, the FIR is lodged. During investigation the

arrested accused Ganesh Madane gave name of the present Applicant as the person who was transporting the banned articles along with the arrested accused. On this basis, the police are seeking to arrest the present Applicant.

4. Learned counsel for the Applicant submitted that this is the first offence of the present Applicant. There are no antecedents. He was not present at the spot. He is falsely implicated. He is named by the co-accused.

5. Learned APP opposed these submissions. According to him, at this stage, the police can act only at the lead given by the co-accused, who has named the present Applicant. Therefore, the Applicant's custodial interrogation is necessary. The seized articles are worth more than Rs.16 Lakhs. This chain of supply and sale has to be broken. For that purpose the custodial interrogation of the Applicant is absolutely necessary.

6. As observed in many cases the business of supplying and selling gutka affects the entire society. For those very purposes those are banned in the State of Maharashtra under the orders passed by the competent authority under FSS Act. The

investigation papers show the statements of other police officers who have taken part in the raid. They have supported the allegations in the FIR. There is definite material against the present Applicant. Therefore, it cannot be said that the police are unnecessarily trying to arrest the present Applicant without any basis.

7. Considering this situation, the Applicant's custodial interrogation is necessary. At this stage, the statement of the co-accused can be considered. Otherwise the other accused involved in the offence cannot be traced and interrogated. This chain needs to be broken. For that purpose, the custodial interrogation of the Applicant based on the material available against him with the police is necessary. The Applicant cannot be protected under Section 438 of Cr.P.C.. The Application is rejected.

(SARANG V. KOTWAL, J.)

Deshmane (PS)

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