

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

ANTICIPATORY BAIL APPLICATION NO. 3323 OF 2022

Darshan Dattatray Turekar	..Applicant
Versus	
State of Maharashtra	..Respondent

**WITH
ANTICIPATORY BAIL APPLICATION NO. 3357 OF 2022**

Pankaj Dattatray Turekar	..Applicant
Versus	
State of Maharashtra	..Respondent

Mr. S. K. Ali a/w. Shabi Fatma a/w. Asif Ali a/w. Pratibha Gupta
i/b. A. A. Siddiquie & Associates for Applicant.
Ms. Mahalakshmi Ganapathy, APP for State/Respondent.

**CORAM : SARANG V. KOTWAL, J.
DATE : 30 JANUARY 2024**

P.C. :

1. Both these applications are decided by this common order because they arise out of the same offence.

2. The Applicants are seeking anticipatory bail in connection with C.R.No.1417 of 2022, registered at Hadapsar Police Station, Pune city, on 12.11.2022, under sections 272, 273

and 328 of the Indian Penal Code and under sections 26(2)(i), 26(2)(iv), 3(1)(zz)(iv) and 59 of the Food Safety and Standards Act, 2006 (hereinafter referred to as 'FSS Act').

3. Heard Mr. Ali, learned counsel for the applicants and Ms. Mahalakshmi Ganapathy, learned APP for the State.

4. The prosecution case is that the F.I.R. was lodged by one Anil Gavte who was the Food Safety Officer, Pune. He was called by the police officers on 12.11.2022 at 12.30p.m. The police had intercepted a tempo bearing No.MH12/LT-1609 carrying banned food articles containing tobacco and pan masala. The tempo was searched and the banned food articles namely scented tobacco, pan masala etc. worth Rs.5,58,000/- were seized. Four persons namely Anil Dhepe, Shoeb Ansari, Shahanawaj Ansari and Hidayat Udekari were named in the F.I.R. Out of them, Anil Dhepe was the driver. He informed that, he had brought the seized goods with the help of other three persons. The total value of the seized articles is worth Rs.5,58,000/-. The investigation revealed that the driver Anil Dhepe was given these food articles by both the present

applicants. Therefore, they are apprehending their arrest.

5. Learned counsel for the applicants submitted that, they have not committed any offence. They are not connected with the arrested accused. They are wrongly implicated. He further submitted that, Section 328 of the I.P.C. is not attracted.

6. Learned APP opposed these submissions. She submitted that, in the present applications, both the applicants were protected by ad-interim order and thereafter during pendency of these applications and when they were under protection, they committed another offence which is registered as C.R.No.170 of 2023 at Kavthe Mahankal police station and in that offence the prohibited food articles of a similar nature worth more than Rs.1 Crore were seized. Thus, the applicants have misused their liberty. She further submitted that, this Court, in an identical matter i.e. A.B.A.No.207 of 2024 involving Section 328 of the I.P.C. has passed an order today. She submitted that, the legal aspects discussed in that order are squarely applicable to the present case.

7. I have considered these submissions. As far as the

applicability of Section 328 of the I.P.C. is concerned, the said issue is discussed in detail in the aforementioned order dated 30.01.2024 passed in A.B.A.No.207 of 2024. The reasoning and findings recorded under that order are squarely applicable to the facts and arguments in the present case. The applicants have committed another offence of a much higher degree when they were protected by ad-interim order during pendency of these applications and, therefore, they have misused their liberty. On all these counts the applicants do not deserve protection U/s.438 of the Cr.p.c. Their custodial interrogation is necessary.

8. Hence, both the applications are rejected.

(SARANG V. KOTWAL, J.)