

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

**ANTICIPATORY BAIL APPLICATION NO. 1570 OF 2024**

Mallikarjun Gurulingappa Chandkawate

...Applicant

**Versus**

The State of Maharashtra

...Respondent

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- Mr. Purushottam Gopal Chavan, for the Applicant.
- Mr. Maur S. Sonavane, APP for State.
- M.R. Koli, H.C., Mangalwedha Police Station, Dist. Solapur

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**CORAM : MANISH PITALE, J.**

**DATE : 18<sup>th</sup> JUNE, 2024.**

**P. C. :**

1. Heard Mr. Purushottam Chavan, learned Counsel for the applicant and Mr. Mayur Sonavane, learned APP for the State.

2. By this application, the applicant seeks protection from arrest, as he apprehends arrest in connection with First Information Report No.0106 of 2024 dated 02<sup>nd</sup> February, 2023, registered at Mangalwedha Police Station, for the offences under Sections 328, 272, 273, 188 of the Indian Penal Code (IPC) and under Section 26(2)(i), 26(2)(ii), 26(2)(iv), 3(1)(zz)(ii) and 59 of the Food Safety and Standards Act, 2006.

3. As regards offences under the Indian Penal Code, except offence under Section 328 of the IPC, the other offences are bailable. Remaining offences are under the Food Safety and Standards Act, 2006 (FSSA).

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4. It is an admitted position, which is not disputed by the learned APP that a number of matters 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 involving allegation of possession and sale of Gutkha. In all such cases, the Supreme Court has granted interim protection to the accused persons. Therefore, the applicant has indeed made out a case in his favour as regards offence under Section 328 of the IPC. The other offences under Sections 188, 272 and 273 of the IPC are all bailable. As regards offences under FSSA, in case of *Ram Nath Vs. The State of Uttar Pradesh & Ors.*<sup>1</sup>, the Supreme Court has held that the Section 59 of the FSSA will override the provisions of Section 272 and 273 of the IPC. In fact, it has been held that there cannot be simultaneous prosecution under both the statutes. The punishment under the provisions of the FSSA also indicates that the applicant has indeed made out a case in his favour, insofar as the present application is concerned, as long as the applicant cooperates with the investigation.

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

- (A) The applicant shall be released on bail in connection with First Information Report No.0106 of 2024 dated 02<sup>nd</sup> February, 2023, registered at Mangalwedha Police Station,

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on furnishing PR bond of Rs.50,000/- and a surety in the like amount to the satisfaction of the Trial Court.

- (B) The applicant shall report to the investigating officer on 24<sup>th</sup> June, 2024 and thereafter as and when the investigating officer calls upon him to report. He shall cooperate with the investigation.
- (C) The applicant shall report to the Police Station Mangalwedha, Dist. Solapur on every 1<sup>st</sup> and 4<sup>th</sup> Monday of the Month between 10.00 a.m. and 12.00 noon, during the pendency of the trial.
- (D) The applicant shall not tamper with the evidence in any manner. He shall not influence the informant, witnesses or any other persons concerned with the case.

6. Needless to say, in case of violation of any of the aforesaid conditions, this Court may consider canceling the order passed today.

(MANISH PITALE, J.)