

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
ANTICIPATORY BAIL APPLICATION NO.1626 OF 2024

Navnath Mahadev Taware ... Applicant
Vs.
State of Maharashtra ... Respondent

Mr. Ganesh Bhujbal for Applicant.

Mr. Sagar R. Agarkar, APP for Respondent-State.

Mr. N. G. Patil, API, Vadgaon Nimbalkar Police Station.

CORAM : MANISH PITALE, J.
DATE : JUNE 21, 2024

P.C. :

. Heard Mr. Bhujbal, learned counsel appearing for the applicant and Mr. Agarkar, learned APP appearing for the respondent - State.

2. In the present case, the applicant apprehends arrest in connection with FIR No.0101 of 2024 dated 06.02.2024 registered at Vadgaon Nimbalkar Police Station, District - Pune for offences under Sections 188, 272, 273 and 328 of the Indian Penal Code, 1860 (IPC) as also Sections 26(2)(i), 26(2)(ii), 26(2)(iv), 27(3)(d) and 30(2)(a) of the Food Safety and Standards Act, 2006 (FSSA).

3. Recently, this Court had allowed application for anticipatory bail in a similar case, taking note of the fact that except offence under Section 328 of the IPC, the other offences are bailable and that, in respect of the said offence, a number of objections are pending before the Supreme Court on the question as to whether in such cases, Section 328 of the IPC can at all be invoked. In such pending matters, the Supreme Court has been consistently granting protection to the accused persons.

4. In the present case also, the allegation against the applicant is that he is a supplier of *gutkha*, which is a banned substance in the State of Maharashtra.

5. Offences under Sections 272 and 273 of the IPC are bailable. Insofar as Section 328 of the IPC is concerned, it is undisputed that the very applicability of the said provision, in such cases, is in doubt as a number of matters raising the said question are pending before the Supreme Court. In such pending cases, the Supreme Court has granted protection from arrest to the accused persons. The remaining offences, in the present case, are under the provisions of the FSSA.

6. In the case of *Ram Nath Vs. State of Uttar Pradesh*, **(2024) 2 S.C.R. 743**, the Supreme Court has deliberated upon the question of the overriding effect of the provisions of the FSSA over the provisions of the IPC. It has been held that the provisions of the FSSA will indeed override certain provisions of the IPC, particularly Sections 272 and 273 thereof, which have been invoked in the present case. In any case, the punishment for the offences under the FSSA would range from three months onwards and therefore, this Court is inclined to positively consider the present application, subject to the applicant co-operating with the investigation.

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

- A. In the event the applicant is arrested in connection with FIR No.0101 of 2024 dated 06.02.2024 registered at Vadgaon Nimbalkar Police Station, District - Pune, he shall be released on bail on furnishing PR Bond of Rs.50,000/- [Rupees Fifty Thousand only] and one or two sureties in the like amount;

- B. The applicant shall remain present before the investigating officer on 26.06.2024 and thereafter, as and when called by the investigating officer. He shall co-operate with the investigation;
- C. The applicant shall not influence the informant, witnesses or any person concerned with the case and he shall not tamper with the evidence.

8. In case any of the aforesaid conditions are violated, the present order would be liable to be cancelled. It is also clarified that the observations made in this order are limited to the question of grant of anticipatory bail to the applicant in the present application and that the trial Court shall proceed further, without being influenced by the observations made in this order.

9. The application is disposed of.

(MANISH PITALE, J.)

Minal Parab