

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
ANTICIPATORY BAIL APPLICATION NO. 1629 OF 2024**

Vikram Dattatray Gadhave	...	Applicant
vs.		
The State of Maharashtra	...	Respondent

Mr. Suyash Nitin Khose a/w. Mr. Siddharth N. Sutaria, Mr. Balaji Gawade and Ms. Yashika Nikkam for applicant.

Mr. Kiran C. Shinde, APP for respondent-State.

**CORAM : MANISH PITALE, J.
DATE : 24th JUNE, 2024**

P.C. :

1. Heard learned counsel for the applicant and the learned APP for the respondent-State.

2. Although the learned APP has opposed the prayer made in the present application, this Court is inclined to allow the same for the following reasons:

3. The offences in the present case have been registered against the applicant under sections 188, 272, 273 and 328 of the Indian Penal Code, 1860 (IPC) and 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), as per FIR No.0216 of 2024 dated 09.04.2024 registered at Police Station Vadgaon-Nimbalkar, District Pune Rural. It is alleged that the applicant supplied the banned substance i.e. *gutkha*.

4. In similar cases, this Court has granted relief to the accused persons for the reason that other than Section 328 of the IPC, offences under sections 188, 272 and 273 of the IPC are bailable. This Court has also taken note of the position of law clarified by the Supreme Court in the case of *Ram Nath vs. State of Uttar Pradesh and others* (2024 SCC OnLine SC 177), indicating overriding effect of the provisions of FSSA over the provisions of the IPC, particularly sections 272 and 273 thereof. In any case, the punishment for offences under the FSSA ranges from imprisonment for six months onwards.

5. As regards section 328 of the IPC, the question of the very applicability of the said provision in such cases, is pending consideration before the Supreme Court. In such pending cases, the Supreme Court has been granting relief to similarly situated accused persons and they have been protected from arrest as long as they co-operate with the investigation.

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

- (i) In the event the applicant is arrested in connection with FIR No.0216 of 2024 dated 09.04.2024 registered at Police Station Vadgaon-Nimbalkar, District Pune Rural, under sections 188, 272, 273 and 328 of IPC and Sections 26(2)(i), 26(2)(ii), 26(2)(iv), 27(3)(d) and 30(2)(a) of FSSA, he shall be released on bail on furnishing PR Bond of ₹ 50,000/- (Rupees Fifty Thousand only) and one or two sureties in the like amount;
- (ii) The applicant shall remain present before the Investigating Officer on 27.06.2024 between 10:00 a.m. and 12:00 noon and thereafter, as and when the Investigating Officer calls upon him to remain present.
- (iii) The applicant shall not tamper with the evidence of the prosecution in any manner. He shall not influence the informant, witnesses and other

persons concerned with the case.

- (iv) The applicant shall co-operate with the investigation and also in the proceedings before the trial court.

7. In the event, the applicant violates any of the conditions specified in this order, it shall be liable to be cancelled.

8. Needless to say, the observations made in this order are limited to the disposal of the present anticipatory bail application and the trial court shall proceed further in the matter without being influenced by the observations made hereinabove.

9. The application stands disposed of.

(MANISH PITALE, J)

Priya Kambli