

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
ANTICIPATORY BAIL APPLICATION NO.2390 OF 2024

Jawanbhai Chhogabhai Chaudhari ... Applicant
Vs.
State of Maharashtra ... Respondent

Mr. Chetan S. Damre for Applicant.

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

Mr. Ramesh Budhaji Patil, PSI, Peth Police Station, Nashik (Rural).

CORAM : MANISH PITALE, J.
DATE : SEPTEMBER 09, 2024

P.C. :

1. Heard Mr. Damre, learned counsel for the applicant and Mr. Agarkar, learned APP for the respondent-State.

2. The applicant is apprehending arrest in connection with FIR No.0120 of 2024 dated 01.08.2024 registered with Peth Police Station, District - Nashik Rural, for offences under Sections 123, 223, 274, 275 and 3(5) of the Bharatiya Nyaya Sanhita, 2023 (BNS), as also under Section 30(2)(a) of the Food Safety and Standards Act, 2006 (FSSA).

3. The learned counsel for the applicant submits that except offence under Section 123 of the BNS, which is equivalent to Section 328 of the IPC, all other offences are bailable. It is submitted that in similar cases, this Court has granted protection from arrest to accused persons and since the applicant undertakes to co-operate with the investigation, the present application may be allowed.

4. The learned APP submits that in the present case, the applicant is from the State of Gujarat and the allegation against him is that he supplied the objectionable material i.e. *gutkha*. His presence before the

investigating officer is necessary for effective investigation.

5. The question as to whether offence under Section 328 of the IPC, equivalent to Section 123 of the BNS can be registered and is sustainable in such cases, is pending consideration before the Supreme Court. A number of such proceedings are pending before the Supreme Court, wherein accused persons have been granted protection from arrest. This Court has also, in a number of applications, concerning identical offences, granted protection from arrest, subject to the accused applicant co-operating with the investigation.

6. 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.0120 of 2024 dated 01.08.2024 registered with Peth Police Station, District - Nashik Rural, he shall be released on bail on furnishing PR Bond of Rs.50,000/- with one or two sureties in the like amount;
- B. The applicant shall remain present before the investigating officer between 10:00 a.m. and 12 noon on 12.09.2024 and 13.09.2024 and thereafter as and when required 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;
- D. He shall also provide his active contact numbers and addresses to the investigating officer for follow up during investigation.

7. Needless to say, violation of any of the aforesaid conditions would make the applicant liable to face proceedings for cancellation of anticipatory bail. 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.

8. The application is disposed of.

(MANISH PITALE, J.)

Minal Parab