

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
ANTICIPATORY BAIL APPLICATION NO.2514 OF 2024

Navnath Gangaram Shinde	...	Applicant
Vs.		
State of Maharashtra	...	Respondent

Mr. Rupesh A. Zade for Applicant.
Mr. Babu V. Holambe-Patil, APP for Respondent-State.

CORAM : MANISH PITALE, J.
DATE : SEPTEMBER 19, 2024

P.C. :

. Heard Mr. Zade, learned counsel for the applicant and Mr. Holambe-Patil, learned APP for the respondent-State.

2. The applicant apprehends arrest in connection with FIR No.0257 of 2024 dated 14.06.2024 registered with Baramati Taluka Police Station, District - Pune Rural, for offences under Sections 188, 272, 273 and 328 of the Indian Penal Code, 1860 (IPC) as also under Sections 26(2)(iv), 27, 30(1), 30(2), 31(1), 31(2) and 59(i) of the Food Safety and Standards Act, 2006 (FSSA).

3. The allegation against the applicant, on the basis of the statement of the co-accused persons, is that he supplied *Gutka* packets, which are banned in the State of Maharashtra, thereby committing the said offences.

4. The learned counsel for the applicant submits that in all such cases, this Court has been granting anticipatory bail to the accused persons on the ground that the very applicability of Section 328 of the IPC is under serious doubt, as such matters are pending before the

Supreme Court and the Supreme Court has granted protection from arrest to accused persons. The other offences under Sections 188, 272 and 273 of the IPC are bailable and even with regard to the offences under the Food Safety and Standards Act, 2006, the punishment prescribed is for limited period, and therefore, this Court may consider granting anticipatory bail.

5. The learned APP, on the other hand, could not dispute the fact that such matters are pending before the Supreme Court. He submitted that this Court may consider granting interim relief and the application may be kept pending.

6. This Court is of the opinion that keeping the application pending would be of no consequence as on earlier occasions also, this Court has granted relief in such matters. The very applicability of Section 328 of the IPC, which provides for punishment of imprisonment upto ten years, is under serious doubt as a number of matters arising from various Courts in India have reached the Supreme Court for decision. The Supreme Court has been granting interim protection to accused persons in such cases, and therefore, by imposing appropriate conditions, the present application can be allowed.

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.0257 of 2024 dated 14.06.2024 registered with Baramati Taluka Police Station, District - Pune Rural, he shall be released on bail on furnishing PR Bond of Rs.50,000/- with one surety in the like amount;
- B. The applicant shall appear before the investigating officer on 23.09.2024 between 11:00 a.m. and 1:00 p.m. and thereafter,

as and when required, till filing of the charge-sheet. The applicant shall co-operate with the investigating officer during the course of 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. 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.

9. The application is disposed of.

(MANISH PITALE, J.)

Minal Parab