

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

ANTICIPATORY BAIL APPLICATION NO. 3127 OF 2024

Rohidas Bapu Ahire

...Applicant

Versus

The State of Maharashtra

...Respondent

- Ms. Sampada Patil a/w Mr. Sainath S. Garade i/b Mr. Nikhil Hirefor Applicant.
- Mr. Bapu V. Holambe Patil, APP for respondent – State.

CORAM : MANISH PITALE, J.

DATE : 25th NOVEMBER, 2024.

SHRIKANT
SHRINIVAS
MALANI

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SHRIKANT
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Date: 2024.11.25
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P. C. :

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

2. The applicant is apprehending arrest in connection with First Information Report No.0172 of 2024, dated 17th October, 2024, registered at Police Station Killa, District Nashik Rural, for offences under Sections 123, 223, 274 and 275 of the Bharatiya Nyaya Sanhita, 2023 (BNS). The non-bailable offence is Section 123 of the BNS (equivalent to Section 328 of the Indian Penal Code, 1860 [IPC]).

3. Having heard the learned counsel for the applicant and the learned APP, this Court is inclined to grant relief to the applicant. In similar cases, this Court has granted anticipatory bail to the accused persons on the

ground that the very applicability of Section 328 of the IPC (equivalent to Section 123 of BNS) is under serious cloud as a number of proceedings are pending before the Supreme Court on the said question. It is a matter of record that the Supreme Court has granted interim relief to such accused persons and this Court has also granted anticipatory bail in that context, so long as the accused persons are ready to cooperate with the investigation.

4. In the present case also, the applicant is ready to cooperate with the investigation, as allegation against him is that *Gutaka* packets were recovered from his shop. Such material being a banned substance in Maharashtra, the FIR came to be registered.

5. 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.0172 of 2024, dated 17th October, 2024, registered at Police Station Killa, District Nashik Rural, he shall be released on bail, on furnishing PR Bond of ₹50,000/- with one or two sureties in the like amount, to the satisfaction of the Trial Court.

(B) The applicant shall remain present before the Investigating Officer on 27th November, 2024 and 28th November,

2024, between 10:00 a.m. and 12:00 noon and thereafter
as and when called by the Investigating Officer.

- (C) The applicant shall cooperate with the investigation.
- (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, violation of any of the aforesaid conditions would make the applicant liable to face proceedings for cancellation of anticipatory bail.

7. 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.)