

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
ANTICIPATORY BAIL APPLICATION NO. 3191 OF 2024**

Mahesh Shamlal Nanwani	...	Applicant
vs.		
The State of Maharashtra	...	Respondent

Mr. Jayant Bardeskar for applicant.

Mr. Bapu V. Holambe-Patil, APP for respondent-State.

Mr. Somnath Sunil Patange, P.C., Local Crime Branch, District Sangli.

CORAM : MANISH PITALE, J.

DATE : 02nd DECEMBER, 2024

P.C. :

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

2. The applicant is apprehending arrest in connection with FIR No.0233 of 2024 dated 17.04.2024, registered at Miraj Rural Police Station, District Sangli for offences under Sections 188 and 328 read with Section 34 of the Indian Penal Code, 1860 (IPC) and Section 59 of the Food Safety and Standards Act, 2006.

3. The allegation against the applicant is that it was at his behest that the co-accused person was transporting *gutkha*, which is a banned substance in the State of Maharashtra.

4. It is an admitted position that the very applicability of Section 328 of the IPC in such cases, is in serious doubt, as the question is pending consideration in a number of cases before the Supreme Court. In the pending cases, the Supreme Court has granted interim protection to the accused persons. This Court had also granted such relief in a number of applications. Therefore, this Court is inclined to grant relief in the present application.

5. But, it is pointed out by the learned APP that the applicant has four other criminal cases registered against him. A perusal of the

details shows that in all the cases, the allegations are similar and offences have been registered under Sections 188 and 328 of the IPC.

6. Considering the aforementioned position, this Court is inclined to allow the application, subject to the applicant abiding by specific conditions proposed to be imposed by this Court.

7. 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.0233 of 2024 dated 17.04.2024, registered at Miraj Rural Police Station, District Sangli, 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.
- (ii) The applicant shall remain present before the Investigating Officer on 05.12.2024 between 10:00 a.m. and 12:00 noon and thereafter, as and when called by the Investigating Officer.
- (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.

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

9. It is also clarified that 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.

10. The application stands disposed of.

(MANISH PITALE, J)