

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION**

ANTICIPATORY BAIL APPLICATION NO. 3254 OF 2024

Nizamuddin Mehboob Shaikh	...	Applicant
Versus		
The State of Maharashtra	...	Respondent

Mr. Vikas Shivarkar for the Applicant.
Mr. Balraj B. Kulkarni, APP for Respondent-State.
Mr. Babaso H. Vhatkar, Kavathe Mahankal Police Station, Sangli.

**CORAM: MANISH PITALE, J.
DATE : 10th DECEMBER 2024**

P.C. :

1. In this application, the applicant is apprehending arrest in connection with FIR No. 0170 of 2023 dated 30th April 2023 registered at Kavathe Mahankal Police Station, Dist. Sangli, for offences under Sections 188, 272, 273 and 328 of the Indian Penal Code, 1860 (IPC) and Section 59 of the Food Safety and Standards Act, 2006 (FSSA).

2. The non-bailable offence in the present case is the offence under Section 328 of the IPC. The very applicability of the said provision in such facts and circumstances, where the allegation is about the accused dealing with *Gutka*, which is banned substance in Maharashtra, is pending before the Supreme Court in numerous matters. In such pending matters, the Supreme Court has been granting protection from arrest to accused persons. This Court has

also granted relief of anticipatory bail in such cases. But, in the present case, on the last date, it was brought to the notice of this Court that in an earlier application for an anticipatory bail filed by the applicant in respect of FIR registered against him for similar offences, this Court rejected the prayer for anticipatory bail and the Supreme Court confirmed the said order.

3. The details of the order passed by this Court in the said anticipatory bail application need to be perused. Presently, the said document is not available with the applicant. While the learned counsel for the applicant submits that it can be produced, the learned APP, on the other hand, has taken instructions from the Investigating Officer, who has referred to the order of the Supreme Court, dismissing the SLP of the applicant in the said matter.

4. Considering the fact that in such cases, this Court has been granting relief to the applicants because the very applicability of Section 328 of the IPC is under a serious cloud, while granting time to the applicant to produce appropriate documents, this Court is inclined to grant interim relief.

5. In view of the above, the applicant is directed to file additional documents within a period of four weeks from today.

6. List the application for further consideration on **16th January 2025 (High on Board)**.

7. In the meanwhile, there shall be interim order in the following terms :

- (a) Till the next date, in the event the applicant is arrested in connection with FIR No. 0170 of 2023 dated 30th April 2023 registered at Kavathe Mahankal Police Station, Dist. Sangli, he shall be released on bail on furnishing PR Bond of Rs.25,000/- and one or two sureties in the like amount.
- (b) The applicant shall remain present before the Investigating Officer on 13th December 2024 between 10:00 a.m. and 12:00 noon and thereafter, as and when called by the Investigating Officer. The applicant shall co-operate with the investigation.
- (c) 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.

8. In the event, the applicant violates any of the aforesaid conditions, the order passed today would be recalled.

MANISH PITALE, J.