

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
ANTICIPATORY BAIL APPLICATION NO.3309 OF 2024

Sohel Aslam Shaikh ... Applicant
Vs.
State of Maharashtra ... Respondent

Mr. Priyal Sarda a/w. Mr. Rajesh Ranglani, Ms. Seema Dighe and Mr. Shubham Sane for Applicant.

Ms. Megha S. Bajoria, APP for Respondent-State.

Mr. Gavade P. M., PSI, Indapur Police Station.

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

P.C. :

. Heard Mr. Sarda, learned counsel for the applicant and Ms. Bajoria, learned APP for the respondent-State.

2. In this application, the applicant is apprehending arrest in connection with FIR No.0787 of 2024 dated 27.09.2024 registered with Indapur Police Station, District - Pune Rural, for offences under Sections 26(2), 26(2)(i), 27(3)(d), 27(3)(e) and 59(iii) of the Food Safety and Standards Act, 2006 (FSSA), as also under Sections 123, 223, 275 read with 3(5) of the Bhartiya Nyaya Sanhita, 2023 (BNS).

3. In this case, the major offence is one under Section 123 of the BNS, equivalent to Section 328 of the Indian Penal Code, 1860 (IPC). The allegation against the applicant is that, he dealt with *Gutkha*, which is a banned substance in the State of Maharashtra.

4. In the Supreme Court, the question as to whether in the context of such cases and allegations, an offence of the aforesaid nature can be registered or not, is pending consideration in a number of cases. The

Supreme Court is dealing with the question as to whether Section 328 of the IPC, equivalent to Section 123 of the BNS can be invoked in the facts and circumstances of such cases. In the pending cases, the Supreme Court has granted relief of protection from arrest to the accused persons. This Court has also granted relief in a number of cases and therefore, this Court is inclined to allow the present application.

5. The learned APP submits that the applicant has criminal antecedents and in one of such antecedents, identical offences have been registered against him. The said aspect can be dealt with by imposing appropriate conditions.

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.0787 of 2024 dated 27.09.2024 registered with Indapur Police Station, District - Pune 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 on 13.12.2024 between 10:00 a.m. and 12 noon and thereafter, as and when called 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.

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 anticipatory bail application is disposed of.

(MANISH PITALE, J.)

Minal Parab