



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
NAGPUR BENCH : NAGPUR

CRIMINAL APPLICATION (ABA) NO.161 OF 2024

Ganesh Narayan Mahulkar

Vs.

State of Maharashtra, Through Police Station Officer, Police Station,
Sewagram, District Wardha

Office Notes, Office Memoranda of Coram,
appearances, Court's orders of directions
and Registrar's orders

Court's or Judge's orders

Mr. Firdos Mirza, Advocate h/f Mr. Mir Nagman Ali, Advocate for applicant.
Mr. U. R. Phasate, APP for respondent/State.

CORAM : URMILA JOSHI-PHALKE, J.
DATED : 26 /04/2024

1. Apprehending the arrest at the hands of Police, in connection with Crime No.46/2024 registered with Police Station Sewagram, Taluka Sewagram, District Wardha for the offences punishable under Sections 188, 272, 273, 328 of the Indian Penal Code and under Sections 26, 26(2)(iv), 27(2)(e), 30(2)(a), 3(1)(zz) (iv) and 59 of the Food Safety and Standards Act, 2006, the applicant seeks pre-arrest bail.

2. The accusation against the present applicant is on the basis of the statement of the co-accused. As per the prosecution case on 27/01/2024 Food Safety Inspector along with the police officials conducted raid and intercepted the vehicle of co-accused Diraj Yadav and Gaurav Meshram, and during the raid, seized the scented

tobacco and Gutakha weighing around 14.510 Kg. worth of Rs.21,110/-. On the basis of said report, the Police have registered the crime. During the investigation, the name of the present applicant is revealed on the basis the statement of the co-accused.

3. The learned counsel for the applicant submitted that the accusation of the present applicant is on the basis of the statement of the co-accused, nothing is recovered from the present applicant and during the investigation the connection of the present applicant with the other co-accused is not revealed. He further submitted that the issue regarding the application of Section 328 of the Indian Penal Code is pending before the Hon'ble Apex Court. Considering the allegations, admittedly, the stock is already seized and immediate custodial interrogation is not required. The present applicant has cooperated with the investigating agency since he released on ad-interim anticipatory bail.

4. The learned APP strongly opposed the present application and submitted that the huge quantity is seized from the co-accused. The custodial interrogation of the present applicant is required. He further submitted that there are criminal antecedents against the present applicant, in view of that, the application deserves to be rejected.

5. Considering the name of the present applicant is not mentioned in the FIR and his involvement is only on the basis of the statement of the co-accused, nothing is seized from him. As far as the criminal antecedents are concerned, which are not sufficient to reject the application of the present applicant. Considering his custodial interrogation is not required and he has already cooperated with the investigating agency, the ad-interim protection granted to him deserves to be confirmed. Accordingly, I proceed to pass following order.

ORDER

(i) The Criminal Application is allowed.

(ii) The interim protection granted to the present applicant **Ganesh Narayan Mahulkar** in connection with Crime No.46/2024 registered with Police Station Sewagram, Taluka Sewagram, District Wardha for the offences punishable under Sections 188, 272, 273, 328 of the Indian Penal Code and under Sections 26, 26(2) (iv), 27(2)(e), 30(2)(a), 3(1)(zz) (iv) and 59 of the Food Safety and Standards Act, 2006, is hereby confirmed on similar terms and conditions.

6. The application is disposed of.

(URMILA JOSHI-PHALKE, J.)