



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

CRIMINAL APPLICATION (ABA) NO. 509 OF 2024

Amar Subash Ghosh Vs State of Maharashtra

Office Notes, Office Memoranda of
Coram, appearances, Court's Orders
or directions and Registrar's order

Court's or Judge's Order

Mr. M.A. Deo, counsel for applicant.

Mrs. Sneha Dhote, APP for non-applicant/State.

CORAM : URMILA JOSHI-PHALKE, J.
DATED : 19/08/2024.

1. Apprehending the arrest at the hands of police in connection with Crime No.45/2024 registered with Police Station, Dhanora, District Gadchiroli for the offences punishable under Sections 188, 273, 328 of the Indian Penal Code and under Sections 26(2)(i), 26(2)(iv), 30(2)(a), 3(1)(zz)(iii) and 59(i) of the Food and Safety and Standards Act read with Section 2, 3 and 4 of the Food Safety and Standards Rules, 2011, the applicant approached this Court for grant of pre-arrest bail.

2. Learned Counsel for the applicant submitted that the crime is registered on the basis of a report lodged by Suresh Posanna Torem, who is working as a Food Safety Officer. He received secret information, and therefore, he conducted the raid, and a two-wheeler was stopped on Godalwahi-Dhonara Road, which had bags that contained scented tobacco. The scented tobacco was already seized from the applicant. He submitted that, considering the allegations in the FIR, the offence under Section 328 is not

made out. Moreover, the issue regarding the application of Section 328 is pending before the Hon'ble Apex Court. Now, the stock is already recovered, the custodial interrogation of the present applicant is not required. In view of that, he be protected by granting anticipatory bail.

3. Learned APP strongly opposed the said application and submitted that the custodial interrogation of the accused is required for ascertain from which place he has procured the stock. In view of that, the application deserves to be rejected.

4. Heard both the sides, perused the investigation papers, from which it reveals that undisputedly, the issue regarding the applicability of Section 328 of the Indian Penal Code, 1860, is pending before the Hon'ble Apex Court. As far as the custodial interrogation of the present applicant is concerned, which is not required, as entire stock has already been recovered by the investigating officer. In view of that, the interim protection granted to the present applicant deserves to be confirmed. In view of that, I proceed to pass the following order;

a] Interim protection granted to the applicant by order dated 11/07/2024 is confirmed by imposing similar conditions.

Criminal Application stands disposed of.

[URMILA JOSHI-PHALKE, J.]