



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

CRIMINAL APPLICATION (ABA) NO.579 OF 2024

(Ajmat Kha Rehmat Kha Vs. State of Maharashtra thr. PSO PS Hiwarkhed, Tq.
Telhara, Dist. Akola)

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

Court's or Judge's orders.

Mr. V. B. Bhise, Advocate for Applicant.
Mr. U. R. Phasate, APP for Non-Applicant/State.

CORAM: URMILA JOSHI PHALKE, J.

DATE: 5th SEPTEMBER, 2024.

1. Apprehending the arrest at the hands of police in connection with Crime No.260/2024 registered with Hiwarkhed Police Station, District Akola for the offences punishable under Sections 123, 245, 270 and 271 of Bhartiya Nyaya Sanhita, 2023 r/w Section 26(2), 26(2)(i), 26(2)(ii), 27(3), 27(3)(d), 27(3)(e), 30(2) and 30(2)(a) of the Food Safety and Standards Act, 2006. The applicant approached to this Court for grant of pre-arrest bail. The crime is registered on the basis of the report lodged by Raju Damodar Kharche, ASI alleging that on 22.07.2024 when he was on duty as the Sub-Divisional Police Officer, Akot he received secret information that one person proceeding on a motorcycle was carrying and transporting prohibited contraband article i.e. pan masala, scented tobacco and gutkha from Malpura road to Adgaon Bk. After receipt of the said information, he immediately intercepted the said vehicle along with the raiding party

vehicle and on the present applicant he has seized the gutkha, scented tobacco and pan masala worth Rs.16,721/-. On the basis of the said report police have registered the crime.

2. Learned counsel for the applicant submitted that as far as the custodial interrogation of the present applicant is concerned which is not required, as the entire stock is already recovered, he is ready to co-operate with the Investigating Agency. He submitted that considering the material collected during the investigation no *prima facie* case is made out against the present applicant and as custodial interrogation of the applicant is not required, he be protected by granting anticipatory bail.

3. Learned APP for the non-applicant/State strongly opposed the said application on the ground that there are criminal antecedents against the present applicant, he is continuously involved in the similar type of the activity and dealing with the contraband articles which is prohibited in State of Maharashtra. He also placed reliance on the crime chart and also submitted that as far as criminal anticipation are concerned no statement is made by the present applicant to that effect that he is having criminal antecedents. Considering all these aspects the applicant cannot be protected by granting anticipatory bail.

4. After hearing the learned counsel for the applicant and the learned APP for the State. Perused the investigation papers from which it reveals that on receipt of the secret information the vehicle motorcycle was

intercepted wherein the present applicant was found carrying the contraband articles and scented tobacco, gutkha and other articles worth of Rs.16,721/-. During the investigation the statements of the various witnesses are also recorded. The APP has filed on record the crime chart which shows that in all five offences are registered against the present applicant which are of the similar in nature. This sufficiently shows that continuously present applicant is involved in a similar type of the activity and dealing with the contraband articles which is prohibited in a State of Maharashtra. Admittedly, mere criminal antecedents are not sufficient to reject the application by considering that as soon as the applicant is released on bail, he is involved in the similar type of the activity and being a discretionary relief the said discretion cannot be used in favour of the applicant who is a habitual offender and dealing with the similar type of the activity. Considering the *prima facie* case made out against the present applicant, the application deserves to be rejected. Accordingly, I proceed to pass the following order:

The application deserves to be rejected.

(URMILA JOSHI-PHALKE, J.)