



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

CRIMINAL APPLICATION (ABA) NO.759 OF 2024
(Nirutti Gopal Badarkhe Vs. The 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. A.S. Thotange, Advocate for the applicant.
Mr. S.V. Narale, APP for the State.

CORAM:- URMILA JOSHI-PHALKE, J.
DATED :- NOVEMBER 21, 2024

Apprehending the arrest at the hands of police in connection with Crime No.337/2024 registered with Police Station Ural, District Akola for the offences punishable under Sections 123, 223, 274 and 275 of the Bharatiya Nyaya Sanhita, 2023 and Sections 26(2), 26(4), 27(3) and 59 of the Food Safety and Standards Act, 2006, the applicant approached this Court for grant of pre-arrest bail.

2. As per the allegation the officials of State Excise Office who were on duty, at the relevant time, they found one person carrying one bag and proceeding on his motorcycle. The motorcycle was intercepted, at that time, he thrown the bag and ran away from the spot. On search of the bag, the contraband articles like Pan Masala and Tobacco was found worth of Rs.15,720/-. Subsequently, the applicant approached to the office of the State Excise for receiving the said bag. On the basis of the said report, police have registered the crime against the present applicant.

3. Learned Counsel for the applicant submitted that as far as the custodial interrogation of the present applicant is concerned, which is not required as contraband articles are already seized. He submitted that the aspect of application of Section 328 is pending before the Hon'ble Apex Court. Considering the same, as the custodial interrogation of the applicant is not required, he be protected by granting anticipatory bail.

4. Learned APP strongly opposed the said application on the ground that the applicant has eloped from the spot of incident and the investigation as to from which place he has procured the said contraband articles to be carried out, and therefore, his custodial interrogation is required.

5. I have heard learned Counsel for both the parties. Perused the recitals of the FIR. Admittedly, the entire contraband articles are already seized. As far as the custodial interrogation is concerned for the purpose of the interrogation from which place he has procured the contraband articles which can be taken care of by imposing certain conditions on the present applicant. In view of that, I proceed to pass following order:

(i) The application is allowed.

(ii) In the event of arrest, in connection with Crime No.337/2024 registered with

Police Station, Ural, District Akola for the offences punishable under Sections 123, 223, 274 and 275 of the Bharatiya Nyaya Sanhita, 2023 and Sections 26(2), 26(4), 27(3) and 59 of the Food Safety and Standards Act, 2006, the applicant - Nirutti Gopal Badarkhe be released on anticipatory bail, on executing PR. Bond in the sum of Rs.25,000/- with one solvent surety in the like amount.

(iii) The applicant shall attend the concerned Police Station once in a week on Monday between 10.00 a.m. to 1.00 p.m., till filing of the charge-sheet and shall cooperate with the investigating agency.

(iv) The applicant shall not induce, threat or promise any witnesses who are acquainted with the facts of the case either personally or by way of electronic media.

(v) The contravention of any of the condition would lead to the cancellation of bail.

6. The application is disposed of.

(URMILA JOSHI-PHALKE, J.)