



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

CRIMINAL APPLICATION (ABA) NO.784 OF 2023
(Ganesh s/o Drupprasad Gupta 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. N.A. Chawhan, Advocate for the applicant.
Mr. N.R. Rode, APP for the non-applicant/State.

CORAM:- URMILA JOSHI-PHALKE, J.
DATED :- FEBRUARY 8, 2024.

Heard.

2. By this application, the applicant is seeking pre-arrest bail in connection with Crime No.1245/2023 registered with Police Station Ramnagar, Chandrapur for the offence punishable under Sections 188, 273 and 328 of the Indian Penal Code and under Sections 26(2)(i), 26(2)(iv), 30(2)(a), 3, 4 and 59 of the Food Safety and Standards Act (FSS) 2006.

3. The accusation against the present applicant is on the basis of report lodged by the Police Officer who received the information that the contraband namely scented tobacco are stored illegally in open place in front of the Gupta Traders, therefore, he conducted the raid and seized the entire stock worth of Rs.1,49,600/-. On the basis of said report, police have registered the crime against the present applicant. After registration of the crime, the notice under Section 41-A of the Code of

Criminal Procedure was issued to the present applicant and he has attended the Police Station. Learned Counsel for the applicant submitted that as far as the custodial interrogation is concerned he has attended the police station in response to the notice issued under Section 41A of the Cr.P.C. The stock is already recovered therefore, the custodial interrogation of the applicant is not required. He is protected by granting ad-interim protection and as per the direction of this Court also he cooperated with the Investigating agency. In view of that, ad-interim protection granted to him deserves to be confirmed.

4. Learned Additional Public Prosecutor strongly opposed the application on the ground that there are previous offences registered against the present applicant. In one of the crime he was caught red handed. Considering the criminal antecedents, the criminal application deserves to be rejected.

5. Having heard learned Counsel for the parties. Perused the investigation papers. As far as the issue regarding the applicability of Section 328 of the Indian Penal Code is concerned which is pending before the Honourable Apex Court. It reveals from the record that notice under Section 41A of Cr.P.C. has already issued to the applicant and he has attended the police station. After the order is passed by this Court also he was directed to attend the police station and accordingly he has attended the same. Considering the same, custodial interrogation of

the applicant is not required. In view of that ad-interim protection granted to the present applicant deserves to be confirmed. Accordingly, I proceed to pass the following order :

- (i) The Criminal Application is allowed.
- (ii) In the event of arrest, the applicant – Ganesh s/o Drupprasad Gupta in connection with Crime No.1245/2023 registered with Police Station Ramnagar, Chandrapur for the offence punishable under Sections 188, 273 and 328 of the Indian Penal Code and under Sections 26(2)(i), 26(2)(iv), 30(2)(a), 3, 4 and 59 of the Food Safety and Standards Act (FSS) 2006, be released on anticipatory bail on executing a 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 as and when required for the investigation purpose.
- (iv) The applicant shall not directly or indirectly make any inducement and threat or promise to any person acquainted with the facts of the present case.

6. The application is disposed of.

(URMILA JOSHI-PHALKE, J.)