



**IN THE JUDICATURE OF HIGH COURT AT BOMBAY
BENCH AT AURANGABAD**

939 ANTICIPATORY BAIL APPLICATION NO. 1992 OF 2024

Vijay Trimbakrao Kendre

VERSUS

The Superintendent Of Police And Another

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Advocate for Applicant : Mr. Kedar A. Pathade h/f Mr. More P. P.

APP for Respondents-State: Mr. A.A.A.Khan

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CORAM : ARUN R. PEDNEKER, J.

Dated : January 22, 2025.

PER COURT :-

1. Heard the learned counsel for the applicant and the learned APP for the respondent-State.
2. The applicant has approached this Court apprehending arrest in connection with FIR No.0394/2024, dated 08/06/2024, registered with M.I.D.C. Latur Police Station, District Latur, for the offences punishable under sections 188, 272, 273, 328 of the Indian Penal Code and Rule 26(2), (I), 26(2) (II) (IV), 30 (2)(a) read with Rule 3.1.7 and 2.3.4 and Section 59 of Food Safety and Standard Act.
3. Considering the judgment of this Court in the case of **Gaurav Jayantbhai Hapani Vs. The State of Maharashtra** in Anticipatory Bail Application No.3406 of 2022, decided on 19.01.2023 and also the order passed by the Hon'ble Supreme Court in the case of **Ek Nath Bhalchandra Patil Vs. The State of Maharashtra** in Petition (s) for Special Leave to Appeal (Cri.) No. 8698/2023, decided on 28.07.2023,

wherein in identical fact situation, the Hon'ble Supreme Court so also this Court in the above noted judgments has observed that applicability of Section 328 of Indian Penal Code [123 of the Bhartiya Nyaya Sanhita] is doubtful in the case of seizure of tobacco and tobacco products including Gutkha and anticipatory bail has been granted.

4. This Court granted interim protection to the applicant by order dated 25/11/2024 for the reasons mentioned therein. The learned Counsel for the applicant submits that the applicant has cooperated with the investigation. The learned APP has not raised any objection regarding the applicant's cooperation with the investigation.

5. In view of the above, the order passed by this Court on 25/11/2024 is confirmed. The application is allowed in the following terms : -

i] In the event the applicant is arrested in connection with FIR No.0394/2024, dated 08/06/2024, registered with M.I.D.C. Latur Police Station, District Latur, for the offences punishable under sections 188, 272, 273, 328 of the Indian Penal Code and Rule 26(2), (I), 26(2) (II) (IV), 30 (2)(a) read with Rule 3.1.7 and 2.3.4 and Section 59 of Food Safety and Standard Act, he shall be released on bail on furnishing PR bond of Rs.20,000/- with one or two sureties in the like amount to the satisfaction of the trial Court.

ii] The applicant shall attend the police station as and when called by the police.

iii] The applicant shall not tamper with the evidence of the prosecution in any manner. He shall not influence the informant, witnesses and other persons concerned with the case.

iv] The applicant shall co-operate with the investigation and also in the proceedings before the trial Court.

6. In the event, the applicant violates any of the conditions specified in this order, it shall be liable to be cancelled.

7. It is also clarified that the observations made in this order are limited to the disposal of the present anticipatory bail application and the trial Court shall proceed further in the matter without being influenced by the observations made hereinabove.

8. The application stands disposed of.

(ARUN R. PEDNEKER, J.)

vj gawade/-.