

Bharat Narayan Gadekar vs The State Of Maharashtra on 14 July, 2022

Author: S.G. Mehare

Bench: S.G. Mehare

911-aba-860-2022.o

(1)

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

ANTICIPATORY BAIL APPLICATION NO.860 OF 2022

Bharat Narayan Gadekar ...Applicant

Versus

The State of Maharashtra ...Respondent

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Mr. Himmatsinh D. Deshmukh, Advocate for the applicant.

Mr. A.A. Jagatkar, APP for the respondent-State.

...

CORAM : S.G. MEHARE, J.

DATED : 14th JULY, 2022.

PER COURT:-

1. Heard learned counsel for the applicant.
2. Issue notice to the respondent-State, returnable on 28.07.2022. Learned APP waives service of notice for the State.
3. Learned counsel for the applicant would submit that the applicant was apprehended by the police with the so-called prohibited chewing Gutka. However, the police did not arrest him. The police set him free. Thereafter, a complaint was lodged by the Food and Drugs Inspector. Thereafter, a notice under Section 41-A of the Criminal Procedure Code was served upon him. The applicant got an

apprehension of his arrest hence, he did not appeared before the police. The Gutka has already been seized from the custody of the

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applicant. Therefore, nothing is to be recovered from him. Hence, he may be released on interim anticipatory bail.

4. The learned APP has strongly opposed the application contending that the applicant did not respond to the notice under Section 41-A of the Criminal Procedure Code. On the same observations, the learned Sessions Judge declined the bail to the applicant. Therefore, he is not entitled to the interim protection.

5. The main ingredient to seek a bail under Section 438 of the Criminal Procedure Code is an apprehension of arrest. Issuing a notice under Section 41-A of the Criminal Procedure Code does not assure of no arrest of a person whom the said notice is served. So the apprehension of applicant's arrest is reasonable. The police had apprehended the applicant with the prohibited Gutka but did not registered any crime immediately nor called the Food and Drugs Inspector to lodge the report.

6. Considering the facts of the case, this Court is of the view that the applicant is entitled to the interim protection. Hence, the following order :

ORDER

(A) In the event of arrest, the applicant, Bharat Narayan Gadekar, be released on interim bail, on executing P.B. and S.B. of Rs.15,000/- (Fifteen Thousand) with one solvent surety in the like

amount in Crime No.102 of 2022 registered with Wadodbazar Police 911-aba-860-2022.odt Station, District Aurangabad for offences punishable under Section 188, 272, 273, 328 of the Indian Penal Code and Section 59 of the Food Safety and Standards Act, on the condition that he shall attend the police station on 16.07.2022, 17.07.2022, 18.07.2022 and 19.07.2022 between 10.00 am to 01.00 pm and shall not tamper with the prosecution witnesses.

(S.G. MEHARE, J.) Mujaheed//