

Mohammad Sabir Khalid Khan vs The State Of Maharashtra on 20 October, 2022

Author: N.R. Borkar

Bench: N.R. Borkar

14-ABA-2638-2022.odt

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
ANTICIPATORY BAIL APPLICATION NO. 2638 OF 2022
Mohammad Sabir Khalid Khan ... Applicant
Versus
The State of Maharashtra ... Respondent
.....
Mr. S.K. Ali instructed by A.A. Siddiqui Associate for the Applicant.
Ms. P.P. Shinde, APP for the State.
.....
CORAM : N.R. BORKAR, J.

DATED : 20 OCTOBER 2022 P.C. :-

. This is an application filed under Section 438 of the Code of Criminal Procedure, 1973 for anticipatory bail.

2. The applicant is apprehending his arrest in Crime No. 223 of 2022 registered at Taloja Police Station, for the offence punishable under Sections 328, 272, 273, 188 r/w. 34 of Indian Penal Code and Sections 26, 27 and 59 of the Food Safety and Standards Act, 2006.

3. It appears that tobacco products (gutakha) were seized from the co-accused. The said co-accused during interrogation disclosed the name of the present applicant as supplier of the said tobacco products.

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4. I have heard the learned Counsel for the applicant and the learned APP for the State.

5. The learned Counsel for the applicant submits that the issue of applicability of Section 328 of IPC to the tobacco products is still pending before the Hon'ble Supreme Court. It is submitted that nothing is to be recovered at the instance of the present applicant and therefore custodial interrogation of the present applicant is not necessary.

6. On the other hand, the learned APP for the State submits that there are more than five offences of

similar nature registered against the present applicant.

7. The issue of applicability of Section 328 of the IPC to tobacco products is still pending before the Hon'ble Supreme Court. Admittedly the incriminating tobacco products were found in possession of the co-accused. Nothing is to be recovered at the instance of present applicant and therefore his custodial interrogation is not necessary. Considering these facts, I am inclined to release the applicant on anticipatory bail. Hence, the following order is passed :

(i) Application is allowed.

(ii) The applicant - Mohammad Sabir Khalid Khan be released on

bail in Crime No. 223 of 2022 registered at Taloja Police Station, for the offence punishable under Sections 328, 272, 273, 188 r/w. 34 of Indian 14-ABA-2638-2022.odt Penal Code and Sections 26, 27 and 59 of the Food Safety and Standards Act, 2006 on furnishing P.R. Bond in the sum of Rs.25,000/- with one or two sureties in the like amount.

(iii) The applicant shall attend the concerned police station on every alternate day from 25th October 2022 for a period of two weeks between 11.00 a.m. and 2.00 p.m. and thereafter, as and when called by the investigating officer and shall co-operate in the investigation.

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PRASHANT DHURI
DHURI Date: 2022.10.21
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