

Rajan @ Rishikesh Vasant Bandgar vs The State Of Maharashtra on 23 November, 2022

Author: N.R. Borkar

Bench: N.R. Borkar

1/3

7-aba-2973-22

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
ANTICIPATORY BAIL APPLICATION NO.2973 OF 2022

Rajan @ Rishikesh Vasant Bandgar

...Applicant

V/s.

State of Maharashtra

...Respondent.

Mr. Satyavrat Joshi a/w. Mr. Nitesh Joshi i/b Mr. Ashish S. Vernekar
for the Applicant.

Ms M.M. Deshmukh, APP for the Respondent/ State.

CORAM : N.R. BORKAR, J.

DATE : 23.11.2022.

P.C. :

1] This is an application under Section 438 of Code of Criminal
Procedure for anticipatory bail.

2] The applicant is apprehending his arrest in C.R. No.538 of

2022 registered at Faujdar Chawadi police station, Solapur city for the offences punishable under
Sections 188, 272, 273, 328 of the Indian Penal Code, 1860 (IPC) and Sections 26(2)(i), 26(2)(ii),
26(2)(iv), 27(3)(e), 30(2)(a) and 59 of Food Safety and Standards Act.

3] On the basis of secrete information, on 6 September 2022, the house of co-accused in the present
crime was raided and during the said raid, Gutkha packets (prohibited tobacco products) were
found in his house. During interrogation of the said co- accused, the said tobacco products were
found to be owned by the present applicant.

7-aba-2973-22.doc 4] I have heard the learned counsel appearing for the applicant and the learned
APP for the respondent / State.

5] The learned counsel for the applicant submits that except offence punishable under Section 328 of IPC, all other offences are bailable. It is submitted that this Court has held that mere possession, storage or sale of Gutkha packets would not attract Section 328 of the IPC and the said issue is now pending before the Hon'ble Supreme Court. It is submitted that nothing is to be recovered from the applicant and therefore, his custodial interrogation is not necessary. It is submitted that there are no other criminal antecedents. It is submitted that the applicant has attended the concerned police station pursuant to the order passed by this Court on 20 October 2022. It is therefore, submitted that the interim anticipatory bail granted to the applicant may be confirmed.

6] On the other hand, the learned APP appearing for the State submits that though the applicant has attended the police station, however, he has not cooperated in the investigation. It is further submitted that considering the nature of offence, the interim anticipatory bail may not be confirmed.

7] This Court has held that mere possession or sale of Gutkha products would not attract Section 328 of the IPC and the said issue is still pending before the Hon'ble Supreme Court. All other offences are bailable. Considering this fact and as there are no criminal antecedents, I am inclined to confirm the interim 7-aba-2973-22.doc anticipatory bail order passed by this Court on 20 October 2022. Accordingly, the interim anticipatory bail granted to the applicant by the order dated 20 October 2022 is hereby confirmed.

9] The applicant shall attend the concerned police station from 28 November 2022 to 30 November 2022 between 11:00 a.m. to 2:00 p.m. and thereafter as and when called and shall cooperate in the investigation.

10] The Anticipatory Bail Application is disposed of in the above terms.

[N.R.BORKAR, J.]