

# Samim Ahmed S/O Abdul Wahid vs The State Of Maharashtra And Another on 12 June, 2024

**Author: Shivkumar Dige**

**Bench: Shivkumar Dige**

2024:BHC-AUG:10747

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IN THE HIGH COURT OF JUDICATURE AT BOMBAY  
BENCH AT AURANGABAD

939 ANTICIPATORY BAIL APPLICATION NO. 220 OF 2024

Samim Ahmed s/o. Abdul Wahid. .. APPLICANT

VERSUS

The State of Maharashtra & another. .. RESPONDENTS

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Advocate for Applicant : Mr.Saurabh R. Nikat h/f.  
Adv.R.R.Karpe

APP for Respondent-State : Mr.P.K.Lakhotiya

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CORAM : SHIVKUMAR DIGE, J.  
DATE : 12.06.2024

P.C. :

1] The applicant apprehends arrest in connection with Crime No.494/2023 registered with Naldurg Police Station, Dist. Osmanabad for the offences punishable under Section 328, 272, 273 r/w. 34 of the Indian Penal Code [for short 'IPC'] and Section 30 (2) (i), 26 (2) (iv), 31 (1) (z) and 59 (i) of Food Safety and Standards Act, 2006.

2] It is the prosecution case that on 22 nd October, 2023, the informant Police Constable Shashikant Shauraj Shinde of Naldurga Police Station was on Nakabandi duty at Golai Chowk, Naldurga along with other police personnel and Homeguard. When they were performing their duties, one vehicle of Eicher company bearing No.TS-12/UD-9273

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was found to them. They inquired the name of the driver. He disclosed his name as Shami Ahmed Abdul Vahid Khan, resident of Hajif Peth, Miyapur, Hyderabad [Telangana]. On further inquiry, police found Gutkha Pan Masala in it, which were in Gani bags. They informed it to API Lokhande. He sent API Devkar at the place of incident. He called two panchas. At that time, the applicant ran away by taking advantage of darkness. In all 45 Gani bags containing Goa 1000 Gutkha worth Rs.18,00,000/- was found. It was seized and taken in custody. The seizure of aforesaid Gutkha was informed to Assistant Food Commissioner, Dharashiv. He sent Food Officer Shri S.G.Mandalik for taking further action. He inquired and when he came to know that the driver had ran away, he informed that he is unable to take further action. So, Police Constable Shashikant Shinde lodged the report at Naldurga Police Station.

3] It is the contention of the learned counsel for the applicant that the applicant has been falsely implicated in this case. The co-accused, owner of the vehicle, has been released on bail. The police has seized Gutkha. Therefore, custodial interrogation of the applicant is not required. The learned counsel for the applicant further submits that the applicant has co-operated the Investigating Officer when he was on interim bail, hence, requested to allow the present application.

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4] It is the contention of the learned APP that the applicant was driving the vehicle in which Gutkha was found. The custodial interrogation of the applicant is required as it is necessary to inquire about the source of Gutkha from where it was procured and from where it was going to be sold. Hence, it is requested to reject the application.

5] I have heard both the learned counsel. Perused the FIR and police papers produced on record. The Gutkha, which was carried from the vehicle of the applicant, is seized by the police. Since the applicant is a driver, he was following the order of his employer. His employer has been released on anticipatory bail by the Sessions Court. Considering this fact, custodial interrogation of the applicant is not required. Considering the above, I pass the following order :

ORDER

I] The application is allowed.

II] In the event of arrest of applicant in connection

with Crime No.494/2023 registered with Naldurg Police Station, Dist. Osmanabad for the offences punishable under Section 328, 272, 273 r/w. 34 of the Indian Penal Code and 220.24ABA Section 30 (2) (i), 26 (2) (iv), 31 (1) (z) and 59 (i) of Food Safety and Standards Act, 2006, he be released on executing personal bond in the sum of Rs.20,000/- with one surety of the like amount, on the following condition :

a] The applicant shall attend the concerned Police Station as and when required by the Investigating Officer and shall co-operate in the investigation. The applicant shall not tamper with the prosecution evidence.

[SHIVKUMAR DIGE] JUDGE DDC