

Mosim Sharif Shaikh And Anr vs State Of Maharashtra on 31 October, 2023

Author: M. S. Karnik

Bench: M. S. Karnik

2023:BHC-AS:32864

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IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

BAIL APPLICATION NO.3345 OF 2023

1. MOSIM SHARIF SHAIKH	
2. SACHIN PRALHAD GAIKWAD	..APPLICANTS
VS.	
THE STATE OF MAHARASHTRA	..RESPONDENT

Mr. Mangesh M. D. Patel a/w Mr. Hritik K. Phapale, Ms. Ragini R. Dhandrut, for the applicant.
Ms. Rutuja Ambekar, APP for the State.
PSI- P.S.Bodade, Kasa police station is present.

CORAM : M. S. KARNIK, J.

DATE : OCTOBER 31, 2023.

P.C. :

1. Heard learned counsel for the applicants and learned APP for the State.
2. This is an application for bail in respect of the offence punishable under sections 328, 188, 272, 273, 34 of the Indian Penal Code, 1860 ('IPC', for short) and under sections 26(2), 27, 23, 26(2)(iv) and 30(2)(a) of the Food Safety and

Standards Act, 2006 registered on 04/10/2023 vide C.R.

No.155 of 2023 with Kasa police station, District - Palghar.

3. The applicants were arrested by Kasa police station on

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05/10/2023. The applicants who are 2 accused were found

transporting Gutkha in Swift Desize Car having number MH-

43-BK-861

It is alleged that the car was transporting

banned Pan-Masala and Gutkha.

The car belongs to the

applicant no.1. Applicant no.1 was working as a police

constable. Learned APP opposed the application for bail.

Learned APP submitted that the applicant had put up a

board of 'Police' on his car. Learned APP submitted that the

conduct of the applicant no.1 disentitles him from being

enlarged on bail atleast till the charge-sheet is fled.

4. Except section 328 of IPC, all other offences alleged against the applicants are bailable. So far as section 328 of IPC is concerned, whether the accusations of the present nature are covered within the meaning of section 328 of IPC is pending consideration before the Hon'ble Supreme Court.

The contraband has been recovered. Though the investigation is in progress, further custody of the applicants in my opinion is not necessary in the facts and circumstances of the present case. The applicants undoubtedly will co-operate with the investigation. So far as the applicant no. 2 is concerned, he was in the car along

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with the applicant no.1 and it is alleged that both the
accused were responsible for transportation of Gutkha. No
criminal antecedents are reported against the applicants.
Hence, the following order :-

ORDER

- (a) The application is allowed.
- (b) The applicant no.1-Mosin Sharif Shaikh and applicant
no. 2- Sachin Pralhad Gaikwad in connection with C.R. No. 155 of 2023 registered with Kasa Police
Station shall be released on bail on their furnishing P.R. Bond of Rs.25,000/- each with one or more
sureties in the like amount.
- (c) The applicants shall attend the investigating ofcer of Kasa police station once a week on every
Sunday of the month between 10.00 a.m. and 1.00 p.m. till the charge- sheet is fled and thereafter
once in a month on every frst Monday between 10.00 a.m. and 12.00 noon till the trial concludes.
- (d) The applicants shall not directly or indirectly make any inducement, threat or promise to any
person acquainted with the facts of the case so as to dissuade him from disclosing the facts to Court
or any Police Ofcer. The applicants shall not tamper with evidence.
- (e) On being released on bail, the applicants shall furnish Urmila Ingale 19. BA 3345-23.doc their
contact numbers and residential addresses to the investigating ofcer and shall keep him updated, in
case there is any change.
- (f) The applicants shall attend the trial regularly. The applicants shall co-operate with the
investigation and shall not seek unnecessary adjournments.
- (g) The applicants shall not tamper with the prosecution process.
- (h) The applicants shall surrender their passports, if any, to the investigating ofcer.
- (i) Needless to mention that it is always open for the competent authority to initiate disciplinary
proceedings against the applicant no.1 in accordance with law.

5. The application is disposed of.

(M. S. KARNIK, J.) Signed by: Urmila P. Ingale Designation: PS To Honourable Judge Date:
31/10/2023 20:19:14