

Gurunath Malikarjun Malge vs The State Of Maharashtra on 25 July, 2022

Author: S. G. Mehare

Bench: S. G. Mehare

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15-ABA.962-22.odt

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

15 ANTICIPATORY BAIL APPLICATION NO.962 OF 2022

GURUNATH MALIKARJUN MALGE
VERSUS
THE STATE OF MAHARASHTRA

...
Advocate for Applicant : Mr. Deshmukh Umakant B.
APP for Respondent-State : Mr. K. S. Patil.
...

CORAM : S. G. MEHARE, J.
DATE : 25.07.2022

PER COURT :-

1. Heard the learned counsel for the applicant and the learned APP for the respondent / State.

2. Issue notice to the respondent, returnable on 03.08.2022.

3. The learned APP waives service of notice for the respondent-State.

4. The applicant hails from the State of Karnataka and runs a business of Gutkha. He has sold the Gutkha in his State to the other co-accused. In the State of Karnataka, there was no

prohibition to sell, stock and distribute the scented pan Gutkha. The applicant had no control over the purchaser, where he or she sales the said contraband. The co-accused

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have brought the Gutkha in the State of Maharashtra where its selling is prohibited. The applicant has to do nothing with the business of the co-accused. Therefore, the prosecution has no case at all for custodial interrogation of the applicant.

5. Learned APP would submit that the co-accused has link with the present applicant. He had knowledge that the so called contraband are going to be sold in the State of Maharashtra, even then, he sold the contraband to them. Therefore, his custodial interrogation is essential.

6. Perused the papers. It is not in dispute that the applicant hails from the State of Karnataka. The sale and stock of the Gutkha has been prohibited in the State of Maharashtra by and under the notification issued by the Food and Safety Department. Prima facie, it appears that the transaction of sale and purchase of the alleged contraband taken place in the State of Karnataka. On this sole ground, the applicant is entitled for the interim protection. Hence, the following order :

ORDER

(i) In the event of arrest, the applicant GURUNATH MALIKARJUN MALGE be released on interim bail, on furnishing P.B. and S.B. of Rs.20,000/- (Rupees 3 15-ABA.962-22.odt Twenty Thousand only) with one solvent surety of the like amount, in Crime No.326 of 2021, registered with Police Station Degloor, District Nanded, for the offences punishable under Sections 188, 328, 272, 273 read with Section 34 of the IPC and Section 26(2)(i), 23, 27, 30(2)(a) and 59(iv) of the Food Safety and Standards Act, on the conditions that he shall not tamper with the prosecution witnesses, he shall co-operate with the Investigating Officer.

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

vmk/-