

Naresh Mangilal Choudhary vs State Of Maharashtra on 1 March, 2022

Author: C.V. Bhadang

Bench: C.V. Bhadang

10 ABA 532-

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

ANTICIPATORY BAIL APPLICATION NO. 532 OF 2022

Naresh Mangilal Choudhary ..Applicant
V/s.
The State of Maharashtra ..Respondent

Mr. Kushal More a/w Marmik Shah for the Applicant.
Mr. R.M. Pethe , APP for the Respondent/State.
API Govind Patil, Dadar Sagari Police Station, Raigad

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CORAM : C.V. BHADANG, J.

DATE : 1 MARCH 2022

P.C.

1. The Applicant, apprehending his arrest, in connection with the investigation of Crime No. 3 of 2022 registered with Dadar Coastal Police Station, Dist. Raigad under Section 328, 272, 273, read with Section 34 of IPC and Section 59 of the Food Safety and Standards Act, 2006 is seeking anticipatory bail.

2. The learned counsel for the Applicant submitted that the only section which is non bailable is Section 328 of IPC. The learned counsel has placed reliance on the decision of the Supreme Court in Joseph Kurian & Anr. Vs. State of Kerala 1 and the order dated 30 September 2021, passed in a batch of 1(1994) 6 Supreme Court Cases 535

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Anticipatory Bail Applications No.944 of 2020 and others, at the Aurangabad Bench, in order to submit that in similar circumstances, it has been held that Section 328 of IPC may not be attracted as there was no attempt to administer any intoxicant or stupefying substance by the Applicant with an intention to commit an offence. The learned counsel further pointed out that the learned Single Judge of this Court at Mumbai has taken a contrary view by order dated 6 November 2020 in ABA (Stamp) No.2489/2020 which order is subject matter of challenge before the Supreme Court in Special Leave to Appeal (Cri.) No.6788/2021. It is pointed out that the Supreme Court by an order dated 21 September 2021 has granted interim protection to the Petitioner therein.

3. Learned APP seeks time to examine and go through the judgments on which the reliance is placed on behalf of the Applicant and then to make appropriate submissions to further assist the Court.

4. Prima facie, it appears that the learned Single Judge sitting at Aurangabad Bench, has taken a view that Section 328 of IPC may not apply in such a case. The contrary view taken by the Coordinate Bench at Mumbai is subject matter of challenge before the Supreme Court in which interim protection has been granted. Hence, the following order is passed.

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ORDER

(i) In the event of his arrest in connection with investigation of Crime No. 3 of 2022 registered with Dadar Coastal Police Station, Dist. Raigad, the Applicant Naresh Mangilal Choudhary, be released on bail on executing a P.R. Bond in the sum of Rs.25,000/- each with one or two solvent sureties each in the like amount.

(ii) The Applicant shall report to Investigating Officer on 7 and 8 March 2022 between 11.00 a.m. to 1.00 p.m. and as and when directed by the Investigating Officer.

(iii) The Applicant shall cooperate with the Investigating Agency and shall not tamper with the prosecution evidence / witnesses.

(iv) This order shall remain in force till next date.

(v) Stand over to 01.04.2022.

(C.V. BHADANG, J.)

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