

Sameer Jaysingh Kanchan vs The State Of Maharashtra on 16 April, 2024

Author: Sarang V. Kotwal

Bench: Sarang V. Kotwal

2024:BHC-AS:17704

5-A

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

ANTICIPATORY BAIL APPLICATION NO. 1018 OF 2024

YUGANDHARA

Sameer Jaysingh Kanchan

.... Applic

SHARAD
PATIL

Digitally signed
by

Versus

YUGANDHARA
SHARAD PATIL
Date: 2024.04.17
16:44:42 +0530

The State of Maharashtra

.... Respond

Mr. Rajesh More , for the applicant.
Ms. Poonam P. Bhosale , APP for the State/Respondent.

CORAM :SARANG V. KOTWAL, J.

DATE : 16th APRIL, 2024 P.C. :

1. The Applicant is seeking anticipatory bail in connection with C.R No.103 of 2024, registered at Uruli Kanchan Police Station, Pune, on 25/03/2024, under Sections 328, 188, 269, 273 of the Indian Penal Code and under Sections 26(2)(i), 26(2)(iv), 27(3)(d), 27 (3)(e) and 59(iii) of the Food Safety and Standards Act, 2006.

2. Heard Mr. Rajesh More, learned counsel for the Applicant and Ms. Poonam Bhosale, learned APP for the y.s.patil 1 of 4 5-ABA-1018-2024.odt Respondent-State.

3. The FIR is lodged by Police Constable Ramesh Bhosale attached to Uruli Kanchan Police Station. He has stated that on 24/03/2024, at about 5.00 p.m. the Police Officers received an information that one pickup van bearing No. MH-12-UM-8331 was parked near the house of one Sandip Kanchan and there were banned articles for sale stored in that pickup van. Police went there. The pickup van was seen on that spot. The raid was conducted. The door of the pickup was opened and it was found that there were gunny bags and boxes containing pan masala, scented tobacco and gutkha worth Rs. 8,81,118/-. The pickup van was belonging to the present Applicant Sameer Kanchan. On this basis the FIR is lodged.

4. Learned counsel for the Applicant submitted that offence under section 328 of the I.P.C. is not made out. The issue is pending before the Hon'ble Supreme Court. The contraband is already seized. Therefore, the custodial interrogation of the y.s.patil 2 of 4 5-ABA-1018-2024.odt Applicant is not necessary.

5 Learned APP opposed these submissions and produced the police report dated 16/04/2024. It is mentioned that the Applicant is a repeat offender. There was another offence pending against him vide C.R. No. 94 of 2023 under the same sections for a similar offence. The pickup van was registered in his name in the RTO Office. There is direct connection of the present Applicant.

6. I have considered these submissions. The Applicant is a repeat offender. This Court has taken a view that in such cases, the custodial interrogation of the seller of contraband articles is necessary. The said view is taken in the case of Mohammed Sadiq Adam Shaikh Vs. The State of Maharashtra in the order dated 30/1/2024 passed in ABA No. 207 of 2024. I have perused the investigation papers produced by learned APP which contain the statements of raiding party members and the panchnama. The statements and panchnama are consistent with the FIR. There is y.s.patil 3 of 4 5-ABA-1018-2024.odt strong material against the present Applicant. It is necessary to find out from where he had obtained those articles and how he wanted to sell those to the customers. The offence is serious. The Applicant's custodial interrogation is necessary. He cannot be protected under section 438 of Cr.P.C. The Application is rejected.

(SARANG V. KOTWAL, J.) y.s.patil 4 of 4