

# Mohammad Fahim Mohd. Ibrahim And ... vs The State Of Maharashtra on 12 August, 2022

**Author: S. G. Mehare**

**Bench: S. G. Mehare**

ABA1028.22

(1)

IN THE HIGH COURT OF JUDICATURE AT BOMBAY  
BENCH AT AURANGABAD

ANTICIPATORY BAIL APPLICATION NO.1028 OF 2022

MOHAMMAD FAHIM S/O. MOHD. IBRAHIM  
MOHAMMAD AKBAR S/O. MOHD. AKHTAR  
AND ANOTHER  
VERSUS  
THE STATE OF MAHARASHTRA

Mr Swapnil S. Dargad, Advocate for applicants;  
Mr V. M. Kagne, A.P.P. for respondent

CORAM : S. G. MEHARE, J.

DATE : 12th August, 2022 P.C.

1. Heard the learned counsel for the applicants.
2. Issue notice to the respondent, returnable on 26.08.2022.
3. The learned APP waives service of notice for the respondent/State.
4. It has been argued by the learned counsel for the applicants that Section 328 of the Indian Penal Code would not attract in the case of Gutka. False allegations have been levelled against the applicants that they are supplier of Gutka. It is also argued that the issue of applicability of Section 328 of the Indian Penal Code in Gutka cases is sub judice before the Honourable Apex Court. In view thereof, the applicants may be granted interim protection.

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5. There are contradictory views of this Court on the issue of applicability of Section 328 of the IPC in the cases of Gutka. The Hon'ble Apex Court is seized with the issue. Hence, the applicants deserve to be granted interim protection.

In the event of arrest, applicant Nos.(1) Mohammad Fahim s/o. Mohd. Ibrahim and (2) Mohammad Akbar s/o Mohd. Akhtar, be released on interim bail, on furnishing PB and SB of Rs.20,000/- each with one solvent surety of like amount, in C.R. No. 226 of 2022, registered with Police Station Hatta, District Hingoli, for the offence punishable under Sections 328, 272, 273, 188 of the Indian Penal Code and Sections 26(2)(iv), 27(2)(e), 30(2)(a) and 59 of the Food Safety and Standards Act, 2006.

(S. G. MEHARE, J.) amj