

Kamal Sharma @ Kuldeep Malharam ... vs The State Of Maharashtra on 12 March, 2024

2024:BHC-AUG:5310

361.2024BA+

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IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

911 BAIL APPLICATION NO. 361 OF 2024

1. Aatiq Khan Taufik Khan Pathan
 2. Akhtar @ Aftar Ahmad Mukhtar Ahmad Pathan
- ..APPLICANTS

-VERSUS-

The State of Maharashtra

..RESPONDENT

...
Advocate for Applicant : Mr. Raje Vikrant P.
APP for Respondent/State : Mr.Satish A. Gaikwad
...

WITH
BAIL APPLICATION NO. 362 OF 2024

Kamal Sharma @ Kuldeep Malharam Chaudhary

..APPLICANT

-VERSUS-

The State of Maharashtra

..RESPONDENT

...
Advocate for Applicant : Mr. Raje Vikrant P.
APP for Respondent/State : Mr.Satish A. Gaikwad
.....

CORAM : SANJAY A. DESHMUKH, J.
DATED : 12th MARCH, 2024.

PER COURT :-

1. The applicants are seeking bail under section 439 of the Criminal Procedure Code, 1973 (for short, "Cr.P.C."). The applicants have been arrested in connection with crime No. 60 of 2024 registered at Shirpur City Police Station, Dist. Dhule, for the offences

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punishable under section 328, 272, 273, 188, 34 of the Indian Penal Code and sections 26(2)(iv), 27(3)(d), (e), 30(2)(a), 3, 59(1) of Food Safety and Standard Act.

2. Report is lodged by the Officer of the Food and Safety Department alleging that on 04.02.2024, the secrete information was received that some pan malasa and Gutkha products are being transported in the trucks. The informant Mr.Baviskar, Food Safety Officer of Food and Safety Department accordingly arranged the trap and seized the products. They intercepted three trucks and found that there was Gutkha and tobacco of Rs.90,00,000/-, Rs.39,00,000/- and Rs.44,00,000/-. The products along with those contraband articles were seized and the report was lodged. Accordingly, the crime was registered and drivers of those trucks were arrested later on and taken into judicial custody.

3. Learned advocate for the applicants submitted that the applicants are only transporters of tobacco and Gutkha. They were transporting it in Maharashtra, which is prohibited in Maharashtra. The applicants are not retailers or sellers of contraband articles. The articles are seized and further custody of the applicants are not necessary. Though the applicants are resident of Gujarat and Rajasthan, they will not flee away from the trial. They have roots in

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the society. It is lastly prayed to allow the applications.

4. The learned A.P.P. for the respondent-State has strongly opposed the applications and submits that huge quantity of contraband are seized. The investigation is in progress. The applicants are involved in the serious crime. Considering the fact that section 328 of the Indian Penal Code is invoked against the applicants, it is lastly prayed to reject the applications.

5. Perused the papers of investigations, particularly report and the seizure panchanama. The applicants' role is that they are transporters of Gutkha and tobacco. Their case is that they are not knowing that they are transporting the contraband which is prohibited in Maharashtra. Considering this fact and without adverting to the merits of the case, the applications deserve to be allowed on certain conditions. Hence, the following order.

ORDER

I. Applications are allowed.

II. The applicants in connection with crime No. 60 of 2024 registered at Shirpur City Police Station, Dist. Dhule, for the offences punishable under section 328, 272, 273, 188, 34 of the Indian Penal Code and sections 26(2)(iv), 27(3)(d), (e), 30(2)(a), 3, 59(1) of Food Safety and Standard Act be released on bail on furnishing personal bond of Rs.50,000/- each with one surety of the like amount by each of the applicants on 361.2024BA+ following conditions:-

- a) The applicants shall not pressurize the prosecution witnesses and tamper with the prosecution evidence in any manner.
- b) The applicants shall attend the concerned police station twice in a month i.e. on every 15th and 30th day of each month till the charge-sheet is filed.
- c) In order to secure presence of the applicants for the trial shall deposit Rs.3,00,000/- each in the trial Court, which shall be kept in the fixed deposit and after the trial is over the said amount be repaid to the applicants along with interest

and if they did not remain present for trial that amount be confiscated and credited to the account of the State Government.

d) They shall not indulge in such activities henceforth.

e) The trial Court shall release the applicants on bail as soon as they deposit the amount mentioned above.

II. If any breach of the above conditions is found, the prosecution is at liberty to proceed against the applicants-accused for cancellation of bail and the trial Court is at liberty to decide that issue without reference to this Court.

(SANJAY A. DESHMUKH, J.) sga