

Mohammed Shahanawaz Abdul Sheikh vs The State Of Mah. Thr. Ps Pulgaon, Wardha on 13 February, 2024

05.aba.110.24.odt

IN THE HIGH COURT OF JUDICATURE AT BOMBAY,
NAGPUR BENCH, NAGPUR.

CRIMINAL APPLICATION (ABA) NO.110 OF 2024
(Mohammed Shahanawaz Abdul Kalam Sheikh Vs. The State of Maharashtra)

Office Notes, Office Memoranda of
Coram, appearances, Court's Orders
or directions and Registrar's order

Court's or Judge's Order

Mr. A. Raoka, Advocate for the applicant.
Mr. V.A. Thakare, APP for the State.

CORAM:- URMILA JOSHI-PHALKE, J.

DATED :- FEBRUARY 13, 2024.

Heard.

2. By this application, the applicant is seeking anticipatory bail in connection with Crime No.647/2023 registered with police station Pulgaon, District Wardha for offence punishable under Sections 188, 272, 273 and 328 of the Indian Penal Code read with Section 26(1), 26(2)

(iv), 27(3)(e), 30(2)(a), 3(1)(zz)(iv) and 59 of the Food Safety and Standards Act, 2006.

3. The applicant is apprehending arrest at the hands of police as crime is registered on the basis of report lodged by Prashant Shivraj Lohar, Food and Safety Officer, Wardha alleging that he received a communication from the local crime branch dated 04/08/2023 informing that the co-accused Prem Ahuja is dealing with contraband articles i.e. scented nuts, scented tobacco which is prohibited in the State of Maharashtra. Accordingly, he conducted the raid and contraband articles worth of Rs.15,01,894/- along with the vehicles was seized. During the interrogation with the co-accused, the name of the present applicant is revealed.

4. Learned Counsel for the applicant submitted that in fact, the name of the present applicant is not mentioned in the FIR. The applicant is arrested on the representation that he is the person by name Fiyaz. In fact, the applicant is not concerned with the name Fiyaz also and he is not concerned with the alleged incident also. There is no specific allegation against the present applicant, neither he is the supplier of the said contraband article. Immediate custodial interrogation of the present applicant is not required. In view of that, he be protected by granting ad-interim protection.

5. Per contra, said application is strongly opposed by the learned Additional Public Prosecutor appearing for the State on the ground that the large quantity is seized from the co-accused. From the investigation papers, the involvement of the present applicant is revealed. In view of that, the prayer of the ad-interim protection deserves to be rejected.

6. Issue notice to the non-applicant, returnable after three weeks.

7. Learned Additional Public Prosecutor waives notice for the State.

8. Having heard learned Counsel for the parties. Admittedly, the name of the accused mentioned as a Fiyaz. Nothing is on record at this moment to show that the applicant is known as Fiyaz. Other co-accused is already released on ad-interim anticipatory bail. Moreover, the Hon'ble Apex Court before it the issue regarding the applicability of the Section 328 of the Indian Penal Code is pending. Nothing is recovered from the present applicant. As far as the custodial interrogation is concerned, already entire contraband articles are seized. In view of that, at this stage, the applicant can be protected by granting ad-interim protection. Accordingly, I proceed to pass the following order :

(i) In the event of arrest, the applicant -

Mohammed Shahanawaz Abdul Kalam
Sheikh in connection with Crime

No.647/2023 registered with police station Pulgaon, District Wardha for offence punishable under Sections 188, 272, 273 and 328 of the Indian Penal Code read with Section 26(1), 26(2)(iv), 27(3)(e), 30(2)(a), 3(1)(zz)(iv) and 59 of the Food Safety and Standards Act, 2006, be released on ad-interim anticipatory bail on executing a P.R.Bond in the sum of Rs.25,000/- with one solvent surety, in the like amount.

(ii) The applicant shall attend the concerned police station once in a week i.e. on every Sunday between 10.00 a.m. and 1.00 p.m. till filing of the charge-sheet and shall cooperate with the investigating agency.

(iii) The applicant shall not directly or indirectly make any inducement and threat or promise to any person acquainted with the facts of the present case.

(URMILA JOSHI-PHALKE, J.) *Divya