

Order below Exh. 1 in, Cri. Bail Application No. 302/2022
(Faiyaj Ahamd Shaikh Vs. State)

By this application, the applicant seeks pre-arrest bail under section 438 of the Cr.P.C. from being arrested in Crime No.I-60 of 2022 registered with Mumbai Naka Police Station, Nashik u/ss. 188,272,273,328 r/w.34 of The Indian Penal Code(IPC) and u/s.26(2)(1) r/w/(1)(ZZ)r/w/27(3)(E)26(2)(4)r/w/30(2)(A),27(3)(D)r/w. 59 of The Food Safety and Standards Act, 2006.

2. The learned counsel Mr.J.S. Shaikh for the applicant submits that, applicant is innocent person and he has been falsely implicated. Applicant is ready to abide by any of the terms and conditions to be imposed by this Court. Section 328 of IPC is not applicable herein. To buttress his above submission,he relies upon **Anand Ramhani Chaurasia vs. The State of Maharashtra, in WP No. 3607. 19(J) dated 13.09.2019.**

3. Learned APP Mr. R.M. Baghdane, by filing pursis (Exh.6) adopted say filed by I.O (Exh.5) and strongly objected this application.

4. Perused record. Prosecution case is that, arrested accused disclosed that, property recovered from him belongs to applicant who is accused 3.As per police report, two accused have already been arrested and property is recovered. This application is strongly objected by learned APP on the ground that, physical custody of applicant is required for the purpose of investigation, to find out who is the real owner of property and to trace out co-accused if any, and his involvement in the crime.

5. However, for the purpose of investigation, on above grounds custodial interrogation is not necessary. By imposing conditions, investigation can be carried out. Offences alleged are not punishable with death or life imprisonment. Whether

section 328 of IPC is applicable or not can be dealt with during trial and not this stage. Hence, above authority is not at all helpful to the applicant at this stage. Thus, apprehension in the mind of applicant of being harassed, man handled, and arrested seems to be reasonable, warranting pre-arrest protection. In the result, I pass the following order.

ORDER

1. This application stands allowed.
2. In the event of arrest of applicant Faiyaj Ahamd Shaikh, in Crime No.I-60 of 2022 registered with Mumbai Naka Police Station, Nashik u/ss. 188,272,273,328 r/w.34 of the IPC and u/s.26(2)(1)r/w,(1)(ZZ)r/w.27(3)(E),26(2)(4)r/w.30(2)(A), 27(3)(D)r/w. 59 of The Food Safety and Standards Act, 2006, the Police Inspector of the concerned police station shall release the applicant on his executing P.R. & S.B. of Rs.25,000/- with solvent surety for the like amount.
3. Applicant shall not leave India without prior permission of the Court.
4. Applicant shall not tamper with the prosecution witnesses.
5. He shall attend the police station on each Monday for one month between 11 a.m. to 01 p.m. or as and when called by I.O. under prior written intimation.

March 9th, 2022.

(**S.T. Tripathi**)
Additional Sessions Judge,
Nashik.