



**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD**

83. ANTICIPATORY BAIL APPLN NO. 1882 OF 2024

SANDIPAN S/O. BABURAO ITEKAR
VERSUS
THE SUPERINTENDENT OF POLICE, LATUR &
ANOTHER

...

Advocate for the applicant : Mr.M.D.Shinde
APP for the respondent-State : Mr.B.A.Shinde

...

AND

ANTICIPATORY BAIL APPLN NO.1883 OF 2024

VITTHAL S/O. RAMBHAU GHUTTE
VERSUS
THE SUPERINTENDENT OF POLICE, LATUR &
ANOTHER

...

Advocate for the applicant : Mr.M.D.Shinde
APP for the respondent-State : Mr.B.A.Shinde

...

AND

ANTICIPATORY BAIL APPLN NO. 1881 OF 2024

BHAIRU S/O. NARSU GHUTTE
VERSUS
THE SUPERINTENDENT OF POLICE, LATUR &
ANOTHER

...

Advocate for the applicant : Mr.M.D.Shinde
APP for the respondent-State : Mr.B.A.Shinde

...

AND

ANTICIPATORY BAIL APPLN NO. 1648 OF 2024

PRAMOD @ BALASAHEB BRIJLALA LOHIYA
VERSUS
THE SUPERINTENDENT OF POLICE, LATUR &
ANOTHER

...

Advocate for the applicant : Mr.M.D.Shinde
APP for the respondent-State : Mr.B.A.Shinde

...

CORAM : ARUN R. PEDNEKER, J.

DATE : 18.11.2024

P.C. :

1] Heard learned counsel for the applicants and the learned APP for the respondent-State.

2] The applicants are apprehending arrest in connection with Crime No. 0277/2024, registered at Murud Police Station, District Latur, for the offences punishable under sections 123, 223, 274, 275 r/w. 3 (5) of the Bharatiya Nyaya Sanhita and Section 59 of Food Safety and Standard Act in ABA Nos.1882 of 2024 and ABA No.1883 of 2024 and the applicants apprehending arrest in connection with Crime No.0276/2024, registered at Murud Police Station, District Latur, for the offences punishable under sections 123, 223, 274, 275 r/w. 3 (5) of the Bharatiya Nyaya Sanhita and Section 59 of Food Safety and Standard Act in ABA Nos.1881 of 2024 and ABA No.1648 of 2024.

3] This Court, by order dated 14.11.2024 passed in ABA No.1670 of 2024 at para no. 3 has observed as under :

*3] Considering the judgment of this Court in the case of **Gaurav Jayantbhai Hapani Vs. The State of Maharashtra** in Anticipatory Bail Application No.3406 of 2022, decided on 19.01.2023 and also the order passed by the Hon'ble Supreme Court in the case of **Eknath Bhalchandra Patil Vs. The State of Maharashtra** in Petition (s) for Special Leave to Appeal (Cri.) No. 8698/2023, decided on 28.07.2023, wherein in identical fact situation, the Hon'ble Supreme Court so also this Court in the above noted judgments has observed that applicability of Section 328 of Indian Penal Code [123 of the Bhartiya Nyaya Sanhita] is doubted in the case of seizure of tobacco and tobacco products including Gutkha and anticipatory bail has been granted. In the instant case also, except Section 123 of the Bhartiya Nyaya Sanhita, all other offences are bailable and the same is not disputed by the learned APP and the matter pertains to seizure of tobacco and tobacco products including Gutkha.*

4] The law stated in the aforesaid order would also apply to the instant case. It is informed that except Section 123 of the Bhartiya Nyaya Sanhita, all other offences are bailable.

5] In view of the same, the earlier protection granted by order dated 29.10.2024 passed in ABA Nos.1882 of 2024, 1883 of 2024 and ABA No.1881 of 20204 stands confirmed and earlier protection granted by order dated 01.10.2024 in ABA No.1648 of 2024 stands also confirmed on following conditions :

i] The applicants in all aforesaid Anticipatory Bail Applications shall attend the police station as and when called by the Investigating Officer.

ii] The applicants in all aforesaid Anticipatory Bail Applications shall not tamper with the evidence of the prosecution in any manner. They shall not influence the informant, witnesses and other persons concerned with the case.

iii] The applicants in all aforesaid Anticipatory Bail Applications shall co-operate with the investigation and also in the proceedings before the trial Court.

6] In the event, the applicants violates any of the conditions specified in this order, it shall be liable to be cancelled.

7] It is also clarified that the observations made in this order are limited to the disposal of the present anticipatory bail applications and the trial Court shall proceed further in the matter without being influenced by the observations made hereinabove.

8] The applications stand disposed of.

[ARUN R. PEDNEKER]
JUDGE