

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
ANTICIPATORY BAIL APPLICATION NO. 2880 OF 2024**

Sandip Ashok Jadhav	...	Applicant
vs.		
The State of Maharashtra	...	Respondent

Mr. Satyajeet P. Dighe for applicant.

Mr. Balraj B. Kulkarni, APP for respondent-State.

**CORAM : MANISH PITALE, J.
DATE : 24th OCTOBER, 2024**

P.C. :

. Heard learned counsel for the applicant and the learned APP for the respondent-State.

2. The applicant is apprehending arrest in connection with FIR No.0132 of 2024 dated 30.08.2024, registered at Peth Police Station, District Nashik Rural, for offences under Sections 3(5), 275, 274, 223 and 123 of the Bharatiya Nyaya Sanhita, 2023 (BNS) and Section 30(2)(a) of the Food Safety and Standards Act, 2006.

3. Having heard the learned counsel for the applicant and the learned APP for the respondent-State, this Court is inclined to allow the present application, for the reason that non-bailable offence in the present case, is Section 123 of BNS equivalent to Section 328 of the Indian Penal Code, 1860 (IPC). The allegation against the applicant is that he facilitated transportation of banned substance *gutkha*.

4. It is an admitted position that the question of the very applicability of the said provision of Section 328 of the IPC, equivalent to Section 123 of the BNS, is pending consideration in a group of matters before the Supreme Court. In such cases, the Supreme Court has granted relief of anticipatory

bail and protection of arrest to a number of accused persons. This Court has also granted such orders. In that light, the applicant has made out a case for allowing his application, as he undertakes to co-operate with the investigation.

5. In view of the above, the application is allowed in the following terms:
 - (i) In the event the applicant is arrested in connection with FIR No.0132 of 2024 dated 30.08.2024, registered at Peth Police Station, District Nashik Rural, he shall be released on bail on furnishing PR Bond of ₹ 50,000/- with one or two sureties in the like amount to the satisfaction of the trial Court.
 - (ii) The applicant shall remain present before the Investigating Officer on 28.10.2024 between 10:00 a.m. and 12:00 noon and thereafter, as and when called by the Investigating Officer.
 - (iii) The applicant shall not tamper with the evidence of the prosecution in any manner. He shall not influence the informant, witnesses and other persons concerned with the case;
 - (iv) The applicant shall co-operate with the investigation and also in the proceedings before the trial court.
6. In the event, the applicant 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 application and the trial court shall proceed further in the matter without being influenced by the observations made hereinabove.
8. The application stands disposed of.

(MANISH PITALE, J)