

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION**

ANTICIPATORY BAIL APPLICATION NO.3486 OF 2024.

Abhijit Suryakant Maske

...Applicant

Vs

State of Maharashtra

...Respondent

Mr. Nilesh Wable a/w. Mr. Amol Kanki i/b Mr. Umesh Mankapure for the Applicant.

Mr. Sagar R. Agarkar, APP for the Respondent-State.

Mr. Yogesh Lahgule, API, Akulj Police Station, District-Solapur.

CORAM: MANISH PITALE, J.

DATE : 20th DECEMBER, 2024.

P. C.:

1. 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.727 of 2024 dated 22/11/2024 registered with Akulj Police Station, District-Solapur, for offences punishable under Sections 274, 275, 223, 123 of Bhartiya Nayaya Sanhita, 2023 (for short, BNS) and Section 26(2) (i), 26(2) (ii), 26(2)(iv), 27(3)(e), 30(2) (a), 59 of Food Safety Act, 2016.
3. The major offence in the present case pertains to Section 123 of BNS (Section 328 of IPC) which pertains to causing hurt by means of poison etc with intent to commit offence.

4. The allegation against the applicant in the present case is that he was dealing with Gutkha, which is a banned item in the State of Maharashtra.

5. The question as to whether offence under section 123 of BNS Section (328 of IPC) can at all be registered in such cases is pending consideration before the Supreme Court in a number of matters. In such cases the Supreme Court has granted accused persons protection from arrest. This Court has also granted relief of anticipatory bail to such accused persons in the light of the pendency of the question before the Supreme Court. Therefore, relief can be granted to the applicant subject to appropriate conditions being imposed

6. In view of the above, the application is allowed in the following terms:

(a) In the event the applicant is arrested in connection with FIR No.727 of 2024 dated 22/11/2024 registered with Akulj Police Station, District-Solapur, he shall be released on bail on furnishing PR Bond of Rs.50,000/- and one or two sureties in the like amount.

(b) The applicant shall remain present before the Investigating Officer on 23rd December 2024 between 10:00 a.m. and 12:00 noon and thereafter, as and when called by the Investigating Officer. The applicant shall cooperate with the investigation.

(c) The applicant shall not tamper with the evidence of the prosecution in any manner. He shall not influence the informant, witnesses or any other person concerned with the case.

7. Needless to say, violation of any of the aforesaid conditions would make the applicant liable to face proceedings for cancellation of anticipatory bail. It is also clarified that the observations made in this order are limited to the question of grant of anticipatory bail to the applicant in the present application.

8. The application is disposed of.

9. In view of the disposal of the Anticipatory Bail Application, the Interim Application, if any, also stands disposed of.

[MANISH PITALE, J.]