



IN THE HIGH COURT OF JUDICATURE AT BOMBAY  
BENCH AT AURANGABAD

41 ANTICIPATORY BAIL APPLICATION NO. 11 OF 2025

SYED SIRAJ ALI SYED MAHEMOOD  
VERSUS  
THE SUPERINTENDENT OF POLICE AND ANOTHER

...  
Advocate for Applicant :  
Mr. R. C. Bora h/f. Mr. Avinash R. Borulkar  
APP for Respondent/State: Mr. B. B. Bhise  
...

CORAM : ARUN R. PEDNEKER, J.

DATE : 03.02.2025

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 Crime No.0515/2024, registered at Mukundwadi Police Station, District Chh. Sambhajinagar, for the offences punishable under Sections 123, 223, 274 r/w 3(5) of the Bharatiya Nyaya Sanhita, 2023 & Section 59 of the Food Safety and Standard Act.

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] Considering the law as laid down by the Hon'ble Supreme Court that Section 123 of the B.N.S. would not apply to seizure tobacco products, this court granted interim protection to the applicant.

5] In view of the same, the earlier protection granted by order dated 07.01.2025 stands confirmed on following conditions:

i] The applicant shall attend the police station as and when called by the Investigating Officer.

ii] 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.

iii] The applicant shall co-operate with the

investigation and also in the proceedings before the trial Court.

6] In the event, the applicant violate 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.

**[ARUN R. PEDNEKER]**  
**JUDGE**

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