



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

46 ANTICIPATORY BAIL APPLICATION NO. 178 OF 2025

ABDUL AJEEJ ABDUL KHADIR

VERSUS

THE STATE OF MAHARASHTRA AND ANOTHER

...

Mr. Sushant Baburao Choudhari, Advocate for Applicant

Mr. N. B. Patil, APP for Respondents-State.

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CORAM : ARUN R. PEDNEKER, J.

DATE : 17.02.2025

PC.:-

1] Heard learned counsel for the applicant and the learned APP for the respondents-State.

2] The applicants are apprehending arrest in connection with Crime No. 0346/2024 dated 19.10.2024, registered at Dhoki Taluka, District Dharashiv, for the offences punishable under Sections 123, 223, 274 and 275 of the Bharatiya Nyaya Sanhita.

3] This Court by order dated 03.02.2025 granted interim protection to the applicant observing in paragraph 4 of the order which reads as under:-

4] *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 the instant case, Gutka is seized from the applicant and therefore, Section 123 of Bharatiya Nyaya Sanhita, 2023 is applied. Considering the above order dated 14.11.2024, passed in A.B.A. No.1670 of 2024, interim protection granted to the present applicant vide order dated 03.02.2025 can be confirmed.

6] In view of the same, the earlier protection granted by order dated 03.02.2025 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. The applicant 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.

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

8] 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.

9] The applications stand disposed of.

(ARUN R. PEDNEKER)
JUDGE