



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

910 ANTICIPATORY BAIL APPLICATION NO. 25 OF 2025

SYED SOHEL SYED MAHEMOOD

VERSUS

THE SUPERINTENDENT OF POLICE AND ANOTHER

...

Advocate for Applicant : Mr. A. R. Borulkar
APP for Respondents-State: Mr. S. P. Sonpawale

...

CORAM : ARUN R. PEDNEKER, J.

DATE : 08.01.2025

P.C. :

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

2] The applicant has approached this Court apprehending arrest in connection with Crime No. 0515 of 2024, dated 15.12.2024, registered with Mukundwadi Police Station, District Chh. Sambhajinagar for the offences punishable under Sections 123, 223, 274 read with 3(5) of Bharatiya Nyaya Sanhita, 2023 and Section 59 of Food Safety and Standard Act.

3] Issue notice to the respondents. The learned APP waives service of notice on behalf of both the respondents.

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.”*

5] 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.

6] In the meanwhile, there shall be interim order in the following terms :-

A] Till the next date, in the event the applicant is arrested in connection with Crime No. 0515 of 2024, dated 15.12.2024, registered with Mukundwadi

Police Station, District Chh. Sambhajinagar for the offences punishable under Sections 123, 223, 274 read with 3(5) of Bharatiya Nyaya Sanhita, 2023 and Section 59 of Food Safety and Standard Act, he shall be released on bail on furnishing PR bond of Rs. 20,000/- with one or two sureties in the like amount.

B] The applicant shall remain present before the investigating officer as and when required by the investigating officer.

C] The applicant shall co-operate with the investigation, including producing all documents in his possession, as may be demanded by the investigating officer.

D] The applicant shall not influence the informant, witnesses or any person concerned with the case and he shall not tamper with the evidence.

7] Needless to say, violation of any of the aforesaid conditions may result in this order being cancelled.

8] List this matter on 21.01.2025.

[ARUN R. PEDNEKER]
JUDGE