

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

CRIMINAL ANTICIPATORY BAIL APPLICATION NO. 2078 OF 2025

Dilip Ramchandra Maske Applicant

Versus

The State of Maharashtra Respondents

Mr. Abhishek T. Ingale, Advocate for the Applicant.

Ms. Priyanka S. Rane, APP, for the Respondent – State.

H.C. Mr. A.B. Yendage, Sangola Police Station - Present.

CORAM : SHIVKUMAR DIGE, J.

DATE : 19th SEPTEMBER, 2025.

Digitally signed
by SHANTANU
SHANKARSA
DHUDUM
Date:
2025.09.26
14:29:25 +0530

P.C. :

1. Heard learned counsel for the Applicant and learned APP for the Respondent – State.
2. The Applicant is apprehending arrest in C.R. No. 534 of 2025 registered with Sangola Police Station, District: Solapur, for the offences punishable under Sections 59, 223, 274, 275, 123 and 3(5) of the Bharatiya Nyaya Sanhita, 2023 (for short, “BNS Act”), and Sections 26(2)(i), 26(2)(ii), 26(2)(iv), 27(3)(e), 30(2)(a) of the Food Safety and Standards Act, 2006 (for short, “FSSA”).
3. It is prosecution’s case that on 22nd June, 2025 around 9:15

p.m., on secret information police intercepted one vehicle. In the said search of vehicle, police found Gutka worth Rs.25,51,280/-. Police arrested the driver of the said vehicle. It is alleged that the said Gutka belongs to the Applicant.

4. It is contention of learned counsel for the Applicant that the Applicant is not concerned with the seized muddemal from the custody of co-accused. There is nothing to show that the Applicant is involved in the present crime. Learned counsel further submitted that the co-accused has been arrested with the Gutka and it has been seized. There is nothing to be recovered from the Applicant. The Food Safety and Standards Act is an independent authority and has an independent procedure. Being a special Enactment, the provisions of BNS will not be attracted. Learned counsel further submitted that as per the view of Hon'ble Apex Court in the case of *The State of Maharashtra & Ors. Vs. Ganesh Pandurang Jadhao and Anr. in SLAP (Crl.) No.(s).5861 of 2020* and *The State of Maharashtra and Ors. Vs. Anand Ramdhani Chaurasia and Anr. SLAP (Crl.) No.(s).4101 of 2020* Section 328 of the Indian Penal Code, 1860 will not be applicable. There was no forcible action by the Applicant to administer the prohibited substance to any person. Learned counsel further submitted that Section 328 of IPC is not an offence, whether it will be applicable or not, that issue is pending before

the Hon'ble Apex Court. Hence requested to allow the application.

He relied on *The State of Maharashtra & Ors. Vs. Ganesh Pandurang Jadhao and Anr. in SLAP (Crl.) No.(s).5861 of 2020* and *The State of Maharashtra and Ors. Vs. Anand Ramdhani Chaurasia and Anr. SLAP (Crl.) No.(s).4101 of 2020*.

5. It is contention of learned APP that police has seized Gutka more than Rs.25,00,000/-. The said Gutka belongs to the Applicant. The Applicant has 6 antecedents of similar nature. The Applicant has been released on bail in those offences and while on bail he has committed the same offence. Investigation is at a primary stage. For investigation custodial interrogation of the Applicant is required. Hence, requested to reject the application.

Learned APP further submitted that as per the notification issued by Food and Drugs Administration, Maharashtra, use of Tobacco and Gutka material is prohibited in the State of Maharashtra.

She relied on *Yellappa S/o. Devappa Tadsad and Ors. Vs. State of Maharashtra and Anr. in Writ Petition No.571 of 2021*, and *Eknath Bhalchandra Patil Vs. The State of Maharashtra in ABA No.189 of 2023*.

6. I have heard both learned counsel, perused the F.I.R. and documents on record.

7. The allegations against the Applicant are that he is the owner of Gutka more than Rs.25,00,000/- found in the vehicle of the Accused No.1.

8. The Applicant has six antecedents of the similar nature, in spite of that he has committed present offence, it shows that he has emboldened and has no fear of law. The anticipatory bail can be granted when it appears that he is not involved in the said crime, and his custodial interrogation is not required, but the Applicant has six antecedents of similar nature and seizure of Gutka is more than Rs.25,00,000/-. Considering these facts as well as the investigation is at primary stage and seizure of Gutka is more than Rs.25,00,000/-. It underscores the gravity of the offence.

I have gone through the case laws cited by the learned counsel for the Applicant. The facts of the cited case and present case are different, hence not applicable and, I pass following order:

ORDER

i. The application is rejected.

(SHIVKUMAR DIGE, J.)