

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

CRIMINAL ANTICIPATORY BAIL APPLICATION NO. 1553 OF 2025

Abhijit Suryakant Maske

.... Applicant

Versus

The State of Maharashtra

.... Respondents

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

Mr. A. S. Shalgaonkar, A.P.P., for the Respondent – State

CORAM : SHIVKUMAR DIGE, J.

DATE : 19th SEPTEMBER, 2025.

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. 221 of 2025 registered with Tembhurni Police Station, Tembhurni, District: Solapur, for the offences punishable under Sections 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) and 59 of the Food Safety and Standards Act, 2006 (for short, “FSSA”).

3. It is prosecution’s case that on 13th April, 2025, at around 8:15 a.m. the police intercepted one vehicle. In the said vehicle, police

found Gutka worth Rs.25,23,760/-. 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 accused No.1. There is nothing to show that he is involved in the present crime. Learned counsel further submitted that the Accused No.1 has been arrested with the material and the said material 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 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 is no forcible action by the Applicant to administer the prohibited substance to any one. Learned counsel further submitted that Section 328 of IPC is not an offence, whether it will be applicable or not, the said 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 three antecedents of similar nature. The Applicant has been released on bail in those offences and while on bail he has committed the present crime. Investigation is at 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 released 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 F.I.R. and

documents produced on record.

7. The allegations against the Applicant are that the Gutka more than Rs.25,00,000/- found in the vehicle belongs to the Applicant. The Applicant has three antecedents of 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 was not involved in the said crime, and his custodial interrogation is not required.

Considering these facts as well as the investigation is in progress and value 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 the following order:

ORDER

i. The application is rejected.

(SHIVKUMAR DIGE, J.)