

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

CRIMINAL BAIL APPLICATION NO. 2315 OF 2025

Kisan Mohan Lonari

...Applicant

Versus

The State of Maharashtra

...Respondent

Mr. Abhishek Tejpal Ingale, learned Advocate for the Applicant.

Ms. Madhavi H. Mhatre, learned A.P.P for the State/Respondent.

PSI Mr. B. V. Patil attached to Sangola Police Station, District-Solapur is present in the Court.

CORAM : ASHWIN D. BHOBE, J.

DATE : 16th JULY 2025.

P.C. :

1. Heard Mr. Abhishek Ingale, learned Advocate for the Applicant and Ms. Madhavi Mhatre, learned A.P.P for the State/Respondent.

2. By the present Application filed under Section 483 of Bharatiya Nagarik Suraksha Sanhita, 2023 (“**BNSS**” for short), the Applicant is before this Court seeking regular bail in connection with Crime No. 352 of 2025 registered with Sangola Police Station, District-Solapur Rural for the offences punishable under Sections 223, 274, 275, 123, 132 and 3(5) of the Bharatiya Nyaya Sanhita, 2023 (“**BNS**” for short) and Sections 26(2)(i), 26(2)(ii), 26(2)(iv), 27(3)(e), 30(2)(a) and 59 of the Food Safety and Standard Act, 2006.

3. There are 6 accused persons in the present crime. Applicant is Accused No. 3.

4. Case of the prosecution is that on the basis of secrete information, raid was conducted on Maske Pan Shop, Dhangar Galli, Sangola. After examination of the shop, contraband articles stocked for selling, were found. The owner of shop premises fled away during the time of search. Applicant herein was found in the shop premises.

5. Applicant (Accused No. 3) was arrested on 3rd May 2025 and since then he is in jail. Criminal Bail Application No. 356 of 2025 filed by the Applicant was rejected by the learned Additional Sessions Judge, Pandharpur by order dated 29th May 2025.

6. Mr. Abhishek Ingale, learned Advocate for the Applicant submits that the Applicant in the present crime is the employee of Anil Maske, i.e., the owner of shop, which was raided. He submits that his presence in the shop was in the capacity of he being employed by Anil Maske. He submits that except for Section 123 of the BNS, all other offences charged in the abovesaid crime, are bailable. He submits that the Applicant was not found in possession of any contraband. He submits that the issue pertaining to Section 123 of the BNS (earlier Section 328 of the Indian Penal Code, 1860), is pending consideration before the Hon'ble Supreme Court in the case of *Anand Ramdhani Chaurasia v/s. The State of Maharashtra*¹. He submits that the Applicant does not have any criminal antecedents. He relies on the following decisions of this Court in the cases of :-

i. *Rashid Rukmuddin and Another v/s. The State of*

¹ 2019 SCC OnLine Bom 1857.

*Maharashtra*²,

ii. *Tushar B. Bhamare v/s. The State of Maharashtra*³,

iii. *Ahefaz Iqbal Memon alias Menon v/s. The State of Maharashtra*⁴,

iv. *Dipak Maharajsing Yadav v/s. The State of Maharashtra*⁵ and

v. *Karan Ramabhai @ Karamshibhai Hamabhai Jograna and Another v/s. The State of Maharashtra*⁶.

7. Ms. Madhavi Mhatre, learned A.P.P. for the State/Respondent does not dispute that the Applicant is an employee of the shop owner, i.e., Anil Maske. She also does not dispute that the issue pertaining to Section 123 of the BNS is pending before the Hon'ble Supreme Court. She submits that charge-sheet is not filed in the present case.

8. I have perused the records with the assistance of learned Advocates of the parties.

9. Perusal of the records reveals that the Applicant is the employee of Anil Maske, owner of the shop. Applicability of Section 123 of the BNS (earlier Section 328 of the IPC) is pending before the Hon'ble Supreme Court. Mr. Abhishek Ingale, learned Advocate submits that the applicant does not have any criminal antecedents.

2 Criminal Bail Application No. 403 of 2023 decided on 6th March 2023.

3 Criminal Bail Application No. 579 of 2025 decided on 26th February 2025.

4 Criminal Bail Application No. 1463 of 2022 decided on 16th January 2023.

5 Criminal Bail Application No. 45 of 2024 decided on 1st February 2024.

6 Criminal Bail Application No. 273 of 2024 decided on 8th March 2023.

10. Considering the facts and circumstances of the present case, the issue of said provision being pending before the Hon'ble Supreme Court and the view taken by this Court in various identical matters, I am inclined to release the Applicant on bail.

11. In view of the above, the present Bail Application is allowed on the following conditions :-

- a. Applicant is directed to be released on bail in connection with Crime No. 352 of 2025 registered with Sangola Police Station, District-Solapur Rural for the offences punishable under Sections 223, 274, 275, 123, 132 and 3(5) of the BNS and Sections 26(2)(i), 26(2)(ii), 26(2)(iv), 27(3)(e), 30(2)(a) and 59 of the Food Safety and Standard Act, 2006 on executing P.R. Bond in the sum of Rs. 10,000/- (Rupees Ten Thousand Only) with one or two sureties in the like amount to the satisfaction of the Additional Sessions Judge, Pandharpur.
- b. Applicant shall not directly or indirectly make any inducement, threat or promise to any person acquainted with facts of accusation, so as to dissuade him from disclosing such facts to the Court or to any police officer.
- c. Applicant shall not tamper with the prosecution witnesses and evidence in any manner.
- d. Applicant shall co-operate in the conduct of the trial

and shall regularly appear before the learned Trial Court as and when summoned in the trial proceedings, unless exempted from appearance.

- e. Applicant upon his release, within a period of three days from his release, shall furnish his cell phone number and residential address with proof to the Investigating Officer, Sangola Police Station, District-Solapur Rural and shall keep the same updated, in case of any change thereto.

12. Criminal Bail Application No. 2315 of 2025 stands disposed of in the abovesaid terms.

[ASHWIN D. BHOBE, J.]

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KOTAWADEKAR

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by GITALAXMI
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