

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

Anticipatory Bail Application No.2027 of 2025

Jamil Ishtiyak Khan
Age: 33 yrs, Occ:business
R/at Hall No.2, Khopoli
Khalapur, Dist. Raigad

... Applicant.

Vs.

The State of Maharashtra
(through Khopoli Police Station)

... Respondent.

Mr Tanveer Patel i/by Mr Ankit S Bangera for the applicant.
Mr SS Pednekar APP for the respondent / State.
PSI Abhijit B Vharamble, Khopoli Police Station, Raigad.

**Coram : R.N.Laddha, J.
Date : 23 July 2025.**

P.C. :

This is an application for pre-arrest bail filed by the applicant, apprehending arrest in CR No.153 of 2025, registered with Khopoli Police Station, Khopoli, Raigad, for the offences punishable under Sections 59, 30(2)(a), 27(3)(e), 27(3)(d), 26(2)(iv), 26(2)(i), 26(1) of the Food Safety and Standards Act, 2006 and 223, 274, 275, 123 read with 3(5) of the Bharatiya Nyaya Sanhita (BNS), 2023.

2. According to the prosecution, on 26 June 2025, acting on specific instructions, authorities conducted a raid at Village Takai, at the house situated at City Survey No.1411. During the raid, a particular room on the premises was searched, where a substantial quantity of banned gutka and pan masala was discovered. In addition, a scooty was found parked within the said premises. Upon searching the scooty, authorities uncovered further quantities of the prohibited items. During further investigation, the owner of the premises informed the authorities that the room in question had been rented out to the present applicant for the purpose of storing goods. It was also ascertained that the scooty found at the site belongs to the applicant, linking him directly to both the premises and the contraband discovered therein.

3. The learned Counsel for the applicant submits that the applicant is innocent and has no involvement whatsoever in the alleged offence. He contends that the allegations made against the applicant are unfounded and without any basis. The essential ingredients necessary to attract the provisions of Section 123 of the BNS are not present in the instant case, and all other offences alleged against the applicant are of a bailable nature.

4. On the other hand, the learned APP, representing the State, submits that a significant quantity of prohibited items was recovered from the dicky of a two-wheeler registered in the name of the applicant. Additionally, the statement provided by the owner of the premises reveals that the said premises were rented to the applicant. The learned APP further submits that the applicant is not a mere participant but the principal architect and the mastermind behind the criminal activity. He also brought to the Court's attention that the applicant has a history of involvement in criminal cases of a similar nature, suggesting a pattern of repeated unlawful conduct. Moreover, data obtained from mobile tower location tracking confirms that the applicant's mobile device was located in the vicinity of the crime scene at the relevant time.

5. The learned APP further submits that apart from the already invoked Section 123 of the BNS, the circumstances of the case also warrant the application of Section 62 BNS. The investigation is at a preliminary stage, and in order to fully uncover the entire chain of illegal activity, it is imperative that the origin and distribution network of the prohibited items be traced. This includes identifying and interrogating the manufacturers, suppliers, intermediaries, and retailers

involved in the distribution chain. The learned APP stresses the gravity of the offence, highlighting that such activities pose a serious threat to public safety and therefore, stringent measures need to be adopted to curb the spread of these illicit articles in society. The custodial interrogation of the applicant, according to the learned APP, is essential as it would enable the investigating agency to unearth crucial leads and prevent the loss of vital evidence.

6. Upon perusing the records, it appears that the applicant's implication is not based solely on the statement of the co-accused. There is sufficient material available on record to support the applicant's involvement. The prohibited goods were discovered in a two-wheeler registered in the applicant's name, and the premises where the banned substances were stored were found to have been rented to the applicant. Furthermore, call detail records, and mobile tower location data indicate the applicant's presence in the vicinity at the relevant time. At this stage, there appears to be a strong *prima facie* case suggesting the applicant's involvement in the alleged offence. In addition, the applicant has a history of prior involvement in similar offences. The underground gutkha business is an organised crime against society with

inter-state ramifications, involving a breach of Central Excise and Income Tax laws. Such activities demand strict judicial scrutiny and decisive law enforcement action. Therefore, a comprehensive and meticulous investigation into the entire network responsible for the unlawful manufacture, transportation, distribution, and sale of these prohibited items is imperative to ensure accountability and uphold the rule of law. Given the gravity of the offence and its implications on society, the custodial interrogation of the applicant is essential.

7. It is a settled principle in law that the power to grant anticipatory bail application is extraordinary. While it has been acknowledged in many instances that regular bail is considered as a general rule, the same cannot be said for anticipatory bail. The decision to grant anticipatory bail should be exercised with careful and prudent discretion by the Court, considering each case's specific circumstances. When exercising this power, the Court must exercise caution, as granting protection in serious cases could potentially lead to miscarriage of justice or hinder investigation by allowing tampering or destruction of evidence. All these aspects are highlighted in *Shrikant Upadhyay & Ors. v. State of Bihar &*

***Anr.*¹**

8. In light of the foregoing, this Court is not inclined to exercise its discretion in favour of the applicant. As a result, the present application stands rejected.

[R. N. Laddha, J.]

1. 2024 SCC OnLine SC 282.