

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
ANTICIPATORY BAIL APPLICATION NO.2678 OF 2025

Sumit Durgaprasad Gupta	...Applicant
<i>Versus</i>	
The State of Maharashtra	...Respondent

Mr. Tushar Sonawane, for the Applicant.
Ms. Savita M. Yadav, APP, for the Respondent-State.
Mr. R. K. Bankar, PSI, attached to Shirur Police Station, Pune,
present.

CORAM: MADHAV J. JAMDAR, J.
DATED : 26th SEPTEMBER 2025

PC:-

1. Heard Mr. Sonawane, learned Counsel appearing for the Applicant and Ms. Yadav, learned APP appearing for the Respondent-State.

2. This application is filed under Section 482 of the Bhartiya Nagrik Suraksha Sanhita, 2023 seeking pre-arrest bail in connection with C.R. No.543 of 2025 registered with Shirur Police Station, Pune, for the offence punishable under Sections 123, 223, 274, 275 of the Bharatiya Nyaya Sanhita, 2023 (“BNS”) and under

Sections 26(2)(i), 26(2)(iv), 27(3)(d), 27(3)(e), 30(2)(a), 59 of the Food Safety and Standards Act, 2006.

3. Mr. Sonawane, learned Counsel appearing for the Applicant states that as far as the offence registered under BNS except Section 123 of BNS, other Sections are bailable. He submits that as far as Section 123 is concerned, i.e. Section 328 of the Indian Penal Code, the issue regarding applicability of said Section in similar cases is pending before the Supreme Court. He relied on the order dated 26th July 2024 passed by a learned Single Judge in Anticipatory Bail Application No.1979 of 2025. He states that Section 59 of the Food Safety and Standards Act, 2006 will have no application to the present case. Section 59 of the Food Safety and Standards Act, 2006 reads as under:

“59. Punishment for unsafe food.- Any person who, whether by himself or by any other person on his behalf, manufactures for sale or stores or sells or distributes or imports any article of food for human consumption which is unsafe, shall be punishable,—

(i) where such failure or contravention does not result in injury, with imprisonment for a term which may extend to six months and also with fine which may extend to one lakh rupees;

(ii) where such failure or contravention results in a non-grievous injury, with imprisonment for a term which may extend to one year and also with fine which may extend to three lakh rupees;

(iii) where such failure or contravention results in a grievous injury, with imprisonment for a term which may extend to six years and also with fine which may extend to five lakh rupees;

(iv) where such failure or contravention results in death, with imprisonment for a term which shall not be less than seven years but which may extend to imprisonment for life and also with fine which shall not be less than ten lakh rupees.”

(Emphasis added)

4. Mr. Sonawane, learned Counsel submits that as far as offences under the Food Safety and Standards Act, 2006 are concerned, at the most Section 59(i) will apply.

5. As per the prosecution case, the co-accused has stored contraband gutkha for selling and during investigation huge quantity of prohibited Pan Masala and scented tobacco gutkha worth Rs.3,56,781/- was recovered from the co-accused and during investigation the involvement of the present Applicant is disclosed as it is alleged that he is the supplier of the said contraband.

6. Mr. Sonawane, learned Counsel submits that there are no other antecedents against the Applicant.

7. On the other hand, Ms. Yadav, learned APP strongly opposes the Anticipatory Bail Application. However, on instructions, she states that there are no antecedents against the Applicant.

8. Perusal of the record shows that except Section 123 of the BNS, other Sections are bailable and as far as offence under the Food Safety and Standards Act, 2006 is concerned, *prima facie* Section 59(i) will apply.

9. Accordingly, the case is made out for grant of Anticipatory Bail. In view thereof, the following order is passed:

ORDER

(a) In the event of arrest of the Applicant- Sumit Durgaprasad Gupta in connection with C.R. No.543 of 2025 registered with the Shirur Police Station, Pune, the Applicant is directed to be released on bail on his furnishing P.R. Bond in the sum of Rs.1,00,000/- with

one or two solvent sureties in the like amount.

- (b) The Applicant shall attend the concerned Police Station on 6th October 2025, 7th October 2025 and 8th October 2025 and thereafter, on every Sunday between 11:00 a.m. to 01:00 p.m. till filing of the chargesheet and shall cooperate with the investigation. In addition, the Applicant shall attend the concerned Police Station as and when called.
- (c) The Applicant shall furnish his cell phone number and residential address to the Investigating Officer and shall keep the same updated, in case of any change thereto.
- (d) The Applicant shall not directly or indirectly make any inducement, threat, or promise to any person acquainted with the facts of the case so as to dissuade such a person from disclosing the facts to the Court or to any Police personnel.
- (e) The Applicant shall not tamper with the prosecution evidence and shall not contact or influence the

Complainant or any witness in any manner.

(f) The Applicant shall not leave India without prior permission of the Court.

10. The Anticipatory Bail Application is disposed of accordingly.

11. It is clarified that the observations made in this order are prima facie and made for the purpose of deciding Anticipatory Bail Application.

[MADHAV J. JAMDAR, J.]

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