

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
ANTICIPATORY BAIL APPLICATION NO. 2901 OF 2025**

Shamima Murtuza Khan	...Applicant
<i>Versus</i>	
The State of Maharashtra	...Respondent

WITH

ANTICIPATORY BAIL APPLICATION NO. 2902 OF 2025	
Kamran Murtuza Khan	...Applicant
<i>Versus</i>	
The State of Maharashtra	...Respondent

Mr. Nauman Pathan (throuh V.C.) a/w Salman Pathan, for the Applicants.
Ms. S.M. Yadav, APP, for the Respondent-State (in ABA No.2901/2025).
Mr. S.A. Karmakar, APP for the Respondent-State (in ABA No.2902/2025).
Mr. Amol Valasang, API, attached to Khadak Police Station, Pune, present (in ABA No.2901/2025).

CORAM: MADHAV J. JAMDAR, J.
DATED : 17th OCTOBER 2025

PC:-

1. Heard Mr. Pathan, learned Counsel appearing for the Applicants and Ms. Yadav, and Mr. Karmakar, learned APPs appearing for the Respondent-State.

2. By this application filed under Section 482 of the Bharatiya Nagarik Suraksha Sanhita, 2023 (“**BNSS**”), the Applicants are

seeking pre-arrest bail in connection with C.R. No.449 of 2025 registered with Khadak Police Station, Pune, for the offences punishable under Sections, 123, 223, 274, 275 of Bharatiya Nyay Sanhita, 2023 (“BNS”), under Sections 30(2)(a), 31, 26(2), 3, 3(1)(zz)(iv), 4 and Section 59 of Food Safety and Standards Act, 2006.

3. The prosecution case is set out in paragraph No.5 of order dated 09th October 2025 passed by learned Additional Sessions Judge, Pune in Criminal Bail Application No.6297 of 2025 filed by the Applicant – Shamima Murtza Khan. The relevant portion of paragraph No.5 reads as under :-

“5. On perusal of copy of investigation papers, it appears that on 05/09/2025, informant Police Head Constable Irfan Nadaf, police staff along with articles for panchnama were in search of persons indulging in illegal activities within the jurisdiction of Khadak Police station. When the informant and others were on patrolling duty, they received information that one person is possessing and selling prohibited gutkha, scented tobacco, therefore, as per directions of Superior, informant and police staff with two panchas effected raid at given address at Room situated in front of Vir Jawan Mitra Mandal's Datta Mandir, Bhavani Peth, Pune and accosted co-accused Firoj with contraband articles worth Rs.2,57,948/-, cash

of Rs.1,01,000/- and mobile phone. During investigation it revealed that the present applicant and her son are dealing in illegal activities of stocking and selling contraband. From the statement of witness, it appears that the room from where the contraband articles came to be seized was taken on rent by the applicant and her son. They used to pay the rent of said room. It further appears that the Pan shop owners of the locality have stated. in their statements that the applicant and her son used to ask them whether they want gutkha for selling”.

4. Ms. Yadav and Mr. Karmakar, learned APPs strongly oppose the Applications. Both of them submitted that the offence is very serious. They point out order of the Supreme Court in the case of *Abhijit Jitendra Lolage vs State of Maharashtra*¹ and more particularly point out following condition imposed by the Supreme Court in case of similar offences :-

“It is deemed appropriate to impose the condition – *“I, Abhijeet Jitendra Lolage do undertake to **not deal with Gutkha, that is, Pan Masala with Tobacco**”*. In case, the appellant – Abhijeet Jitendra Lolage **violates the terms and conditions of bail, including the undertaking imposed, it would be open to the prosecution to seek cancellation of bail**”.

(Emphasis added)

1 SLP(Criminal) Diary No.2806 of 2023

5. Mr. Pathan, learned Counsel appearing for the Applicants submits that as far as Applicant – Shamima Murtuja Khan there are no antecedents. He submits that as far as Applicant - Kamran Murtuza Khan there are three antecedents. He further submits that except offence under Section 123 other offences are bailable offences. He further submits that, although, as far as Applicant – Kamran Murtuza Khan is concerned there are antecedents of similar nature, the Applicants are ready to give undertaking in terms of order passed by Supreme Court in the case of Abhijeet Jitendra Lolage (Supra).

6. It is admitted position that except Section 123 of BNS, all the Sections are bailable. As far Section 123 of BNS is concerned, issue whether Section 123 of BNS will apply to similar circumstances is pending before the Supreme Court.

7. As the Applicants are ready to give undertakings that they will not deal with Gutkha and Tobacco products in any manner whatsoever, 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 - Shamima Murtuza Khan and Applicant - Kamran Murtuza Khan in connection with C.R. No.449 of 2025 registered with Khadak Police Station, Pune on executing P.R. Bond of Rs.1,00,000/- and furnishing one or two solvent sureties in the like amount.
- (b) The Applicant shall attend the concerned Police Station once a week i.e. on Sunday between 11.00 a.m. to 3.00 p.m. till filing of Charge-sheet.
- (c) The Applicants to furnish an undertaking that they will not deal with banned products i.e. Gutkha, Pan masala with tobacco products in any manner whatsoever. Such undertaking is to be filed in this Court within a period of two weeks from today.
- (d) The Applicants shall furnish their cell phone number and residential address to the Investigating Officer and shall keep the same updated, in case of any change thereto.
- (e) The Applicants 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.

- (f) The Applicants shall not tamper with the prosecution evidence and shall not contact or influence the Complainant or any witness in any manner.
- (g) The Applicants shall not leave India without prior permission of the Court.
- (h) In case, the Applicants violates the terms and conditions of bail, including the undertaking, it would be open to the prosecution to seek cancellation of bail.

8. The Anticipatory Bail Application is disposed of accordingly.

[MADHAV J. JAMDAR, J.]