

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
ANTICIPATORY BAIL APPLICATION NO.2933 OF 2025

Irshad Nihal Ahmad Khan

...Applicant

Versus

The State of Maharashtra

...Respondent

Mr. Rajesh More, for the Applicant.

Mr. C. D. Mali, APP for the Respondent-State.

P.S.I. Ganesh Chavan, Bundgarden Police Station, Pune City,
present.

CORAM: MADHAV J. JAMDAR, J.

DATED: 17 OCTOBER 2025

PC:-

1. Heard Mr. Rajesh More, learned Counsel appearing for the Applicant and Mr. Mali, learned APP for the Respondent-State of Maharashtra.

2. By this Anticipatory Bail Application filed under Section 482 of the *Bharatiya Nagarik Suraksha Sanhita, 2023* ("BNSS"), the Applicant is seeking pre-arrest bail in connection with CR No.264 of 2025 registered with the Bundgarden Police Station, Pune City, Pune for the offences punishable under Sections 123, 223, 274 and 275 of the *Bharatiya Nyaya Sanhita, 2023* ("BNS"), Sections 7(2) and 20(2) of the *Cigarettes and other Tobacco Products*

(Prohibition of Advertisement and Regulation of Trade and Commerce, Production, Supply and Distribution) Act, 2003, Sections 59, 26(2)(i) and 26(2)(iv) of the Food Safety and Standards Act, 2006 and Section 65(e) of the Maharashtra Prohibition Act, 1949.

3. The prosecution case is set out in Paragraph Nos.7 and 8 of the Order dated 13th October 2025 passed by the learned Special Judge [Under SC & ST (POA), Act], Pune, below Exhibit-1 in Criminal Bail Application No.6284 of 2025. The relevant portion of said Paragraph Nos.7 and 8 reads as under :-

“7. On perusal of material available on record it appears that, on 11.09.2025 the informant had lodged report contending that, he alongwith his team were doing petrolling for detecting contraband articles. Near Pune Railway Station they found that the three rickshaw were passing one behind the other. Therefore, they gave signal to stop them. But the rickshaw did not stop and went away. Thereafter, they chased said rickshaw and apprehended them. On taking search of said rickshaw they found contraband articles worth Rs. 4,00,000/- in said rickshaw.

8. The material shows that, the rickshaw driver have told that the contraband articles were to be delivered to the applicant. In the course of investigation, the Investigation Officer had recorded the statement of witnesses from which it can be gathered that, the applicant is running the stall and is selling the

contraband articles. The statement of said witnesses also shows that, the contraband articles were transported on the say of applicant. ...”

4. Mr. Mali, learned APP strongly opposes the Application. He submits that the offence is very serious. He points out the Order of the Supreme Court in the case of ***Abhijit Jitendra Lolage vs State of Maharashtra***¹ and more particularly relies on 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)

5. Mr. More, learned Counsel for the Applicant submits that the Applicant is ready to give undertaking as per the Order of the Supreme Court.

6. It is an admitted position that except Section 123 of BNS all the Sections are bailable. Insofar as Section 123 is concerned, issue

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whether Section 123 of BNS will apply to similar circumstances is pending before the Supreme Court.

7. The Applicant is ready to give undertaking as per the Order of the Supreme Court.

8. 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 - Irshad Nihal Ahmad Khan, in connection with CR No.264 of 2025 registered with the Bundgarden Police Station, Pune City, Pune, he be released on bail on his furnishing PR 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 29th October 2025, 30th October 2025 and 31st October 2025 between 11:00 a.m. to 02:00 p.m. and as and when called and shall cooperate with the investigation.
- (c) The Applicant 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 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.
 - (e) 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.
 - (f) The Applicant shall not tamper with the prosecution evidence and shall not contact or influence the Complainant or any witness in any manner.
 - (g) The Applicant shall not leave India without prior permission of the Court.
 - (h) In case, the Applicant violates the terms and conditions of bail, including the undertaking, it would be open to the prosecution to seek cancellation of bail.
9. The Anticipatory Bail Application is disposed of accordingly.

[MADHAV J. JAMDAR, J.]