

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

ANTICIPATORY BAIL APPLICATION NO. 3497 OF 2025

Shekhar Dilip Kadam

...Applicant

V/s.

The Sr. Police Inspector Oshiwara

Police Station and Anr.

...Respondents

Adv. Mateen Shaikh, a/w Adv. Arshad Shaikh, Adv. Muskan Shaikh,
Advocate for the Applicant.

Mr. B. V. Holambe Patil, APP for the Respondent/State.

CORAM : N.R. BORKAR, J.
DATE : 19.12.2025.

P.C. :

1. This is an application for Anticipatory Bail.
2. The applicant is apprehending his arrest in Crime No. 1154 of 2025 registered at Oshiwara Police Station, for the offences punishable under Sections 275, 274, 223 & 123 of the Bharatiya Nyaya Sanhita and Section 59 of the Food Safety and Standards Act.
3. On 10.09.2025, on the basis of secrete information, a tempo bearing No.MH 04 LE 3910 owned by the present applicant was intercepted at Sneh Sadan Building, Behram Marg, Oshiwara, Mumbai and it was found to be transporting prohibited tobacco products worth Rs.18,46,800/-. During interrogation, the apprehended co-accused disclosed that the said tobacco products were belonging to the present applicant.

4. I have heard the learned counsel for the applicant and the learned APP for the respondent-State.

5. Learned counsel for the applicant submits that the offences under the Food and Safety Standards Act and the Bharatiya Nyaya Sanhita cannot be invoked together. In support of his submission, learned counsel has relied upon the judgment of the Hon'ble Supreme Court in the case of ***Ram Nath vs. The State of Uttar Pradesh***¹. It is submitted that even otherwise there is no need of custodial interrogation and the applicant is ready to cooperate in the investigation.

6. On the other hand, learned APP for the respondent/State submits that the said prohibited tobacco products were belonging to the present applicant. It is submitted that considering the nature of crime, the applicant may not be released on anticipatory bail.

7. The Hon'ble Supreme Court in the case of *Ram Nath vs. The State of Uttar Pradesh (supra)* **has observed thus:**

"21. We have no manner of doubt that by virtue of Section 89 of the FSSA, Section 59 will override the provisions of Sections 272 and 273 of the IPC. Therefore, there will not be any question of simultaneous prosecution under both the statutes."

8. Apart from it, the only material against the present applicant is disclosure statement of the co-accused. There are no

¹ Criminal Appeal No. 472 of 2012 with connected appeals decided on 21st February 2024.
Pramod S.Lakare

other criminal antecedents against the present applicant. In that view of the matter, I am inclined to release the applicant on anticipatory bail. In the result the following order is passed.

ORDER

- a) The Application is allowed.
- b) In the event of arrest of the applicant in connection with Crime No. 1154 of 2025 registered at Oshiwara Police Station, for the offences punishable under Sections 275, 274, 223 & 123 of the Bharatiya Nyaya Sanhita and Section 59 of the Food Safety and Standards Act, the applicant be released on bail on furnishing P.R. Bond in the sum of Rs. 25,000/- with one or two sureties in the like amount.
- c) The applicant shall attend the concerned police station as and when called by the investigating officer and shall co-operate in the investigation.

[N.R.BORKAR, J.]