IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

ANTICIPATORY BAIL APPLICATION NO. 1723 OF 2026

Firoj Khan Mahemud Khan
VERSUS
The State Of Maharashtra And Another

Mr. A. R. Borulkar, Advocate for applicant
Mr. S. P. Joshi, APP for respondent-State

CORAM : R. M. JOSHI, J.
DATE : 01st OCTOBER, 2026

PER COURT :-

1. Applicant seeks pre-arrest bail in connection with Crime No. 0459 of 2026 registered with Bhokardan Police Station, Dist. Jalna, for the offences punishable under Sections 123, 223, 274, 275 read with Section 3(5) of the Bharatiya Nyaya Sanhita and under Section 59 of the Food Safety and Standards Act.

2. First Information Report indicates that a secret information was received with regard to transportation of contraband gutaka and pan masala. After interception of vehicle, contraband was seized. During the course of investigation, it was found that the said contraband was to be delivered to the present applicant.

3. Learned Counsel for the applicant submits that there is

nothing to be recovered from the present applicant as recovery has already been done at the spot. He further submits that the issue with regard to the applicability of Section 123 of the Bharatiya Nyaya Sanhita is pending decision before Hon'ble Supreme Court. According to him, having regard to the nature of offence, appropriate direction to the applicant to appear before the Investigating Officer and co-operate in the investigation will be sufficient.

4. Learned APP opposed application by referring to the record indicating conversation between co-accused and present applicant. Having regard to the said evidence, it cannot be said that here, in this case, there is no material to connect applicant with the crime even though it is the fact that the issue with regard to the applicability of provisions of section 123 of the Bharatiya Nyaya Sanhita (old Section 328 of the Indian Penal Code) to gutaka cases are pending for decision before the Hon'ble Supreme Court. He claims that considering nature of offence and prohibition imposed, custodial interrogation of applicant is necessary.

5. *Prima facie,* perusal of the record indicates that here, in this case, contraband gutka and pan masala worth Rs. 61,56,250/- came to be seized from co-accused. This is not the case wherein involvement of the applicant is sought on the basis of alleged statement of co-accused.

There is evidence to show that applicant was in contact with co-accused as such there is material to connect him with the crime in question. The gutaka and pan masala is prohibited for manufacture and sale in the State of Maharashtra. This Court finds substance in the contention of learned Counsel for applicant to ascertain from whom the contraband is procured as the co-accused is mere driver of vehicle. Having regard to the nature of offence more particularly, when there is evidence to connect applicant with the crime in question, this Court finds no reason to grant any protection to the applicant.

6. Application stands dismissed.

(R. M. JOSHI, J.)

B. S. Joshi