



**IN THE HIGH COURT OF JUDICATURE AT BOMBAY**  
**BENCH AT AURANGABAD**

**BAIL APPLICATION NO. 2409 OF 2025**

ROHIT TRIMBAK GHODKE  
**VERSUS**  
THE STATE OF MAHARASHTRA

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Advocate for Applicant : Mr. Sudarshan J. Salunke  
APP for Respondents-State : Mr. P. P. Dawalkar

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**CORAM : SACHIN S. DESHMUKH, J.**

**Date : 6<sup>th</sup> January, 2026**

**ORDER :-**

1. The applicant has approached this Court seeking regular bail in connection with FIR dated 28.10.2025 bearing Crime No. 352 of 2025 registered with Washi Police Station, Dist. Dharashiv for the offences punishable under Sections 123, 223, 274, 275, 3(5) of Bharatiya Nyaya Sanhita, 2023 and Sections 59 of the Food Safety and Standards Act.

2. The prosecution's case is that on 28.10.2025, Balaji Sakharam Dhagare, ASI with the Highway Security Squad, Manjarsumbha, Beed, lodged a report at the Washi Police Station, leading to the registration of the present crime. According to the prosecution, on 10.10.2025 at approximately 5:00 am, police received credible intelligence that a white pickup vehicle (No. MH-

23/AU-4783) was transporting prohibited Gutkha on NH-52 near Pargaon. After a brief chase, the police team intercepted the vehicle. While three individuals managed to flee the scene, the present applicant, Rohit Tryambak Ghodke, was apprehended at the spot as the driver. Upon inspection, the vehicle was found to contain several bags of banned Gutkha products valued at approximately ₹12,67,000, along with a mobile phone. The applicant allegedly disclosed that the contraband belonged to a co-accused, Aaba Mule of Beed. The police seized the vehicle, Gutkha, and mobile phone under a panchanama. Consequently, the FIR came to be lodged.

3. The learned counsel for the applicant submits that the applicant is falsely implicated in the crime. The allegations pertain to regulatory offences under the Food Safety and Standards Act, 2006 and there is no material to show that he manufactured, sold or stored any unsafe food products. It is further submitted that the provisions of Section 123 of the BNS are not applicable against the applicant. The investigation is almost complete and the alleged substance is recovered by the investigating agency. Hence, further incarceration of the applicant is unjustified and prayed to allow the application.

4. The learned APP opposed the application, submitting that the accused was apprehended as the driver of the vehicle carrying the banned substance of tobacco, while three associates fled from the spot. Given the serious nature of the offense, it is contended that the applicant's release on bail would pose a significant risk of tampering with evidence. Consequently, the prayed for the application to be rejected.

5. Considering the submissions from both sides and perusing the record, it is evident that except the offence punishable under Section 123 of the BNS, all the other offences against the applicant are bailable in nature. This Court has consistently held that in order to attract the provision of Section 123 of the BNS (earlier 328 of IPC), there must be an allegation about administration of the poisonous substance. However, no such allegations are being leveled against the applicant. The applicant is only alleged to have transported those goods and was consequently, apprehended by the Police.

6. Nevertheless, the Hon'le Apex Court is seized with the matter when the question involved as to whether Section 328 of IPC (now 123 of BNS) could be invoked. In that view of the matter

the case is made out to grant bail, effectively safeguarding the liberty of the accused while examining the issue.

7. Considering that the alleged contraband is recovered and the samples so obtained are sent for chemical analysis, nothing is to be recovered at the instance of the applicant. As such, the detention of the applicant as an under trial prisoner, in the circumstances of the case does not seem to be either warranted or justifiable. I am, therefore, persuaded to exercise the discretion in favor of the applicant. The learned APP's apprehension about tampering with the prosecution evidence can be adequately taken care of by imposing stringent conditions.

8. Resultantly, following order is passed :-

**ORDER**

- (I) Application is **allowed**.
- (II) Applicant – Rohit Trimbak Ghodke be released on regular bail on furnishing P.R. bond of Rs. 50,000/- (Fifty Thousand Only) with one or two local solvent sureties in the like amount, in connection with Crime No. 352 of 2025 registered with Washi Police Station, Dist. Dharashiv for the offences punishable under Sections 123, 223, 274, 275, 3(5) of Bharatiya Nyaya Sanhita, 2023 and Sections 59 of the Food Safety and

Standards Act, on the following conditions :-

- (a) The applicant shall attend each and every date of the Trial Court, unless exempted by the Trial Court.
  - (b) The Applicant shall not pressurize the prosecution witnesses and shall not tamper with the prosecution evidence, in any manner.
  - (c) The applicant shall submit his Aadhar and Pan Card to the Investigation Officer and detailed addresses and phone numbers of applicant and two of the near relatives.
  - (d) In case of breach of any of the conditions by the applicant, it is open for the Prosecution to move this Court seeking cancellation of bail.
- (III) Needless to states that the observations rendered herein are to the extent of this application and the trial court shall not be influenced by the same.

**(SACHIN S. DESHMUKH, J.)**

*Omkar Joshi*