



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

935 ANTICIPATORY BAIL APPLICATION NO. 2005 OF 2025

Siddheshwar Sudhakar Jadhav

VERSUS

The Superintendent Of Police And Another

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Mr. P. P. More - Advocate for Applicant

Ms Neha B. Kamble - APP for State

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CORAM : HITEN S. VENEGAVKAR, J.

DATED : 13TH JANUARY, 2026

PER COURT : -

1. Heard the learned Advocate for the Applicant and the learned APP for the State.

2. The present application seeking pre-arrest bail in connection with C.R. No. 0331 of 2025 registered with Renapur Police Station, District Latur, for the offences punishable under Sections 123, 223, 274, 275 of the Bharatiya Nyaya Sanhita, 2023 [for short 'BNS'] and Section 59 of the Food Safety and Standards Act, 2006.

3. The learned Advocate for the Applicant submits, that out of the penal sections applied in the present FIR, Section 123 of the BNS is the only Section which is cognizable and non-bailable. All the other Sections are bailable in nature. He further argues that, in the facts and

circumstances of the case, the ingredients of Section 123 of the BNS are not attracted and in support of his contention, he relies upon the judgment of this Court in *Gaurav Jayantbhai Hapani Vs. The State of Maharashtra* in Anticipatory Bail Application No. 3406 of 2022, and also on the order passed by the Hon'ble Supreme Court of India in the case of *Eknath Bhalchandra Patil Vs. The State of Maharashtra* in Special Leave to Appeal (Cri.) No. 8698 of 2023, wherein in the identical facts and the situation, the Hon'ble Supreme Court so also this Court observed that applicability of Section 328 of the Indian Penal Code (123 of the Bharatiya Nyaya Sanhita) is doubtful in the case of seizure of tobacco and tobacco products including Gutkha and accordingly, in those cases the Anticipatory Bail has been granted.

4. I have perused the copy of the FIR and have also gone through the contents of the allegations made therein. This is also one of the case where the police have registered the FIR against the present applicant for stocking the prohibited substance under the name and style as 'Vimal Pan Masala' which falls into the category of 'Gutkha'. Taking into consideration the order passed by the Hon'ble Supreme Court in respect of applicability of Section 123 of the BNS (erstwhile Section 328 of the IPC), I am of the considered view that the present applicant can also be released on pre-arrest bail.

5. In view of the above, I pass the following order:

ORDER

- [i] The Application is allowed.
- [ii] In the event of arrest of the Applicant, Siddheshwar Sudhakar Jadhav in connection with C.R. No. 0331 of 2025 registered with Renapur Police Station, District Latur, for the offences punishable under Sections 123, 223, 274, 275 of the Bharatiya Nyaya Sanhita, 2023 and Section 59 of the Food Safety and Standards Act, 2006, he be released on bail on his furnishing P.B. of Rs. 25,000/- [Rupees Twenty Five Thousand], with one surety in the like amount.
- [iii] The Applicant shall attend and report to the Investigating Officer as and when called, and cooperate with the investigation.
- [iv] The applicant shall not tamper with evidence or influence any witness or the complainant in any manner whatsoever.
- [v] The Application is disposed of.

**[HITEN S. VENEGAVKAR]
JUDGE**