



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

ANTICIPATORY BAIL APPLICATION NO. 2166 OF 2025

SAYYED MOHAMMAD ZAKIR SAYYED JALIL

VERSUS

THE STATE OF MAHARASHTRA AND ANOTHER

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Advocate for Applicant : Mr. Rajendra G. Hange

APP for the Respondents/State : Mr. P. D. Patil

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CORAM : MEHROZ K. PATHAN, J.

DATE : 28th JANUARY, 2026

PER COURT :

1. Heard the learned Counsel for the Applicant and the learned APP for the State.
2. The Applicant has approached this Court, seeking anticipatory bail in connection with Crime No.309/2025 registered with Peth Beed Police Station, Tq. and Dist. Beed for the offences punishable under Sections 123, 223, 274, 275 of Bharatiya Nyaya Sanhita, 2023.
3. On 07.11.2025, Informant Vilas Thombre, Police Head Constable attached to Peth Beed Police Station, lodged a report alleging that on the same day at about 02:00 p.m., he along with Police Head Constable Mane was present at Barshi Naka Chauki. At that time, Pooja Pawar, Dy. S.P., along with other police officers,

arrived and informed them that they had received secret information that Sayyed Zaker and Sayyed Shaker, residents of Mominpura, had kept stock of Gutka for sale at their shop, Madina Traders, despite the prohibition imposed by the Maharashtra Government. Thereafter, it was decided to raid the said shop. All of them reached in front of Madina Traders at about 02:15 p.m. by Government vehicle. The shop was found closed. The mobile number displayed on the shop board (9112091011) was dialed to contact Zaker, who stated that he would come shortly, but thereafter disconnected the call. A subsequent call was made, but the phone was switched off. P.S.I. Katkar called two panch witnesses for breaking the lock of the shutter and for recording the seizure panchnama. Accordingly, PSI Katkar called Awaij Shaikh and Shaikh Ameer to act as panchas. They were informed of the secret information received and were asked whether they were willing to witness the breaking of the lock and seizure proceedings. Upon their consent, one person, Shaikh Imran, resident of Swarajya Nagar, Barshi Road, was also called, and in his presence, the lock of Madina Traders was broken. The shop was searched, and a seizure panchnama was prepared. Inside the shop, packets of Gutka and other scented pan masalas were found. A cash amount of Rs. 63,160/- was also recovered from the counter box. All the above muddemal was seized in the presence of the panchas, and a seizure panchnama was effected. Thereafter, Food and Drugs Inspector, was informed telephonically. One packet from the seized articles was preserved for CA sample. It is alleged that the accused had stocked Gutka and Pan Masala for sale, which is prohibited by

the Maharashtra Government, and such sale poses danger to human life. On the basis of the said report, Peth Beed Police registered Crime No. 309/2025 dated 07.11.2025 under Sections 123, 223, 274, and 275 of B.N.S. 2023.

4. The learned Counsel for the Applicant submits that there has been non-compliance with Section 105 of the BNS, inasmuch as the search and seizure of the contraband ought to have been video recorded by the police authorities. Such non-compliance vitiates the entire seizure, and therefore the Applicant is entitled to be released on bail. The learned Counsel further submits that the contraband was seized from the spot, therefore the custody of the Applicant is not required. The entire seizure was conducted in the absence of the Applicant, and therefore the search and seizure stand vitiated. Consequently, the Applicant is entitled to be released on bail. The Applicant is falsely implicated in the present crime. There is a delay of 8 hours in lodging the FIR. The alleged muddemal/contraband was seized from the staircase in front of the Applicant's shop. The Applicant is added as an accused merely on suspicion. Hence, the Applicant may be released on bail.

5. As against this, the learned APP strongly opposes the present application on the ground that the Applicant is involved in serious offences relating to the sale of contraband Gutka, which is prohibited by orders of the Commissioner for Food Safety vide notification issued under Section 30 of the Food Safety and

Standards Act. The learned APP further submits that the Applicant was contacted telephonically on his mobile number 9561031002 and was directed to remain present for the search and seizure. However, the Applicant failed to do so. The entire search and seizure panchnama was prepared, and video recording of the same was made on a mobile phone. A separate panchnama to that effect was also prepared on 07.11.2025, i.e., the date of the raid. Accordingly, the provisions of Section 105 of the BNS have been scrupulously complied with. The Applicant is alleged to have committed offences of sale and transport of prohibited articles, namely Gutka and Pan Masala. It is further submitted that the Applicant has a criminal history, as offences were previously registered against him: Crime No. 108/2022 under Sections 328, 272, 273 of IPC at Peth Beed Police Station; Crime No. 192/2020 under Section 188 of IPC; and Crime No. 93/2023 under Sections 328, 272, 273 read with Section 34 of IPC, all relating to the sale and possession of prohibited contraband Gutka and Pan Masala. The Applicant is, therefore, a habitual offender and there is every likelihood that if the Applicant is released on anticipatory bail, the Applicant may again commit the similar offences.

6. I have gone through the allegations in the FIR as well as investigation papers made available by the learned APP. The perusal of the investigation papers shows that the Applicant had stored prohibited articles in his shop, namely Madina Traders at Mominpura, Beed. Upon receiving secret information, the police

conducted a raid and made a phone call to the Applicant on his mobile number 9561031002, directing him to remain present. Although the Applicant initially assured that he would attend the search and seizure, he failed to turn up. The police party thereafter conducted the raid and found packets of Goa-1000 Gutkha, Hira Pan Masala, Rajniwas Pan Masala, Rajnigandha Pan Masala, Vimal Pan Masala, BaoBaji Pan Masala, and other mixtures used for preparing Gutkha. The contraband was seized by the raiding party, and the seizure video proceedings were recorded on a mobile phone. Thus, the provisions of Section 105 of the BNS stand complied with. A panchnama was prepared on 07.11.2025, i.e., the date of the raid, in the presence of panch witnesses. Accordingly, there is ample evidence to establish the involvement of the Applicant in the said crime. It appears from record that even after the raid and registration of the offence on 07.11.2025, efforts were made to pursue and apprehend the Applicant on the next day of the raid i.e. 08.11.2025. However, the Applicant absconded, leaving behind a four-wheeler vehicle, in the boot space of which prohibited tobacco worth Rs. 2,40,000/- was found and seized. Hence a subsequent crime being FIR No.348/2025 is registered against him on 08.11.2025 at Peth Beed Police Station.

7. The Applicant appears to be a habitual offender indulging in the sale and possession of prohibited contraband articles, namely Gutkha and Pan Masala as three identical offences are registered against him of identical nature. Taking into consideration the criminal antecedents of the Applicant, there is every likelihood that if

released on anticipatory bail, he may again indulge in similar offences. The Applicant has thus failed to make out a case for exercise of powers under Section 482 of B.N.S., for grant of anticipatory bail. Accordingly, the application stands rejected and is disposed of.

MEHROZ K. PATHAN
JUDGE

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