



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

ANTICIPATORY BAIL APPLICATION NO. 449 OF 2026

Savji Himmatrao Dalvi

....Applicant

VERSUS

The Superintendent Of Police And Another

.....Respondent

.....
Advocate for Applicant : Mr. Borulkar Avinash R.
APP for Respondents: Mr. K.K. Naik.

CORAM : MEHROZ K. PATHAN, J.

DATE : 21st APRIL, 2026.

P.C. :-

1. The applicant has approached this Court seeking anticipatory bail in connection with Crime No. 43 of 2026 registered with Jafrabad Police Station, District Jalna, for the offences punishable under Sections 123, 223, 275 of the Bhartiya Nyaya Sanhita and under Section 59 of the Food Safety and Standards Act.

2. The case of the prosecution is that on 16/02/2026 at about 4.30 p.m. to 5.15 p.m. a police constable along with others were on patrolling duty. They received secret information that one person is selling prohibited food article Gutkha at Yewta. Upon raid, the applicant was found selling prohibited food articles i.e. Gutka worth of Rs.62,500/- in contravention of notification passed by Government of Maharashtra. Accordingly present crime is registered against applicant.

3. Mr. Borulkar, the learned counsel for the applicant submits that the applicant is named in the FIR, however, it is surprising that the

applicant though was allegedly found to be in possession and storage of the contraband, the applicant was not arrested. The entire allegations are concocted by the police authorities only to frame the applicant in the present crime. The applicant was not even present at the time of the incident. These contraband were deliberately put in the tin shed of the applicant and a false FIR is registered only to implicate the present applicant. There are no allegations that the applicant ran away from the spot. The applicant is not having any criminal antecedents and is ready to abide by any conditions that may be imposed upon him. Hence the applicant may be released on anticipatory bail.

4. As against this, the learned APP strongly opposes the application on the ground that the applicant is involved in a serious offence of sale and transport of Gutka, Pan masala. The State Government has formulated policy and a notification under Section 30 of the Food Safety and Standards Act, 2006 is issued to prohibit sale, transport possession of contraband Gutka, Pan Masala and scented tobacco in the State of Maharashtra. The contraband amounting to Rs. 62,500/- was found in the shed belonging to the present applicant. The spot panchanama shows that brother of the applicant had shown the spot from where the contraband was seized. The offence under Section 123 of BNS is punishable for 10 years of imprisonment. Hence, this is not a fit case for release of the applicant on anticipatory bail. Hence, the application may be rejected.

5. I have gone through the investigation papers made available by the learned APP. Though there are allegations that the applicant was found on the spot with the alleged contraband, however, surprisingly there are no allegations that the applicant ran away from the spot and it is also not explained as to why the applicant was not arrested by the patrolling party from the spot when the applicant is alleged to have a

cognizable offence punishable under Section 123 of the BNS. Further, the statement of the police patrolling party also states that the applicant was on the spot alongwith the contraband, however, it is not clear as to why the applicant is not arrested from the spot. There are no allegations that the applicant ran away from the spot. The spot panchanama shows that the entire contraband is seized from the spot which was shown by the real brother of the applicant. Be that as it may, these observations are prima facie in nature and are made only for the purpose of deciding the present application. The same may not influence the trial court. The apprehension of the learned APP that the applicant may again commit the offences of like nature, can be taken care of by imposing stringent conditions. Therefore, I am inclined to protect the applicant, however, upon certain conditions. Hence, the following order :-

ORDER

[I] In the event of arrest of the applicant, in connection with Crime No. 43 of 2026 registered with Jafrabad Police Station, District Jalna, for the offences punishable under Sections 123, 223, 275 of the Bhartiya Nyaya Sanhita and under Section 59 of the Food Safety and Standards Act, the applicant Savji Himmatrao Dalvi, be released on bail on furnishing PR Bond in the sum of Rs. 50,000/- , with one or more sureties in the like amount, on the following conditions :-

[i] The applicant shall attend the concerned police station and report to the Investigating Officer on 1st day of every month till the completion of trial and shall cooperate with the investigation.

[ii] The applicant shall not indulge into any identical offence of selling, transport or possession of contraband

Gutka, Panmasala and scented tobacco.

[iii] A single violation of the conditions shall entitle the prosecution to seek cancellation of bail.

[v] The applicant shall submit his Aadhar card and Pan card to the Investigating Officer alongwith mobile numbers and addresses of two of his near relatives and his present address.

[vi] The application stands disposed of.

[MEHROZ K. PATHAN]
JUDGE.

grt/-