



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

ANTICIPATORY BAIL APPLICATION NO. 541 OF 2026

**SAYYAD TALEB SAYYAD KHALED
VERSUS
THE STATE OF MAHARASHTRA**

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Advocate for Applicant : Mr. Kale h/f Mr. Solanke Sharad S.
APP for Respondents/State : Mr. D. J. Patil
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**CORAM : MEHROZ K. PATHAN, J.
DATE : 8th APRIL 2026**

PER COURT :

1. Heard the learned Counsel Mr. Kale holding for Mr. Solanke for the Applicant, and the learned APP Mr. Patil for the Respondent/State.
2. The Applicant has approached this Court, seeking anticipatory bail application in connection with Crime No. 194/2025 registered with Neknoor Police Station, District Beed for the offences punishable under Sections 3(5), 281, 275, 274, 123 of the Bhartiya Nyaya Sanhita, 2023.
3. The case of the prosecution is that on 24.07.2025, informant B. R. Dhakne lodged a report alleging that on the said date he, along with other staff, was on duty. They received information

from Senior Officers that a pick-up vehicle containing Gutkha was parked near Wangaon, Taluka and District Beed. The informant and other staff proceeded to the spot, where they found a pick-up vehicle bearing registration No. MH-23/AU-1015 overturned on the road after an accident. On inspection, sacks containing Gutkha and similar material were found in the pick-up. At some distance, a car bearing registration No. MH-01/BT-6144 was also found parked in a suspicious manner. Upon further inspection, sacks filled with the same type of prohibited articles were found in the said car. The prohibited muddemal and vehicles, valued at Rs. 20,71,640/-, were seized. Accordingly, aforesaid crime came to be registered against the Applicant.

4. The learned Counsel for the Applicant submits that the Applicant is falsely implicated in the present crime. The Applicant is added as an accused solely on the basis of the statement of one co-accused who was arrested. The Applicant is in no way concerned with the contraband found at the spot. The Applicant is not having any criminal antecedents and is further ready to abide by any conditions that may be imposed by this Court. Hence the Applicant may be protected.

5. As against this, the learned APP strongly opposes the present application on the ground that the name of the Applicant was revealed while the arrested accused was in custody. The arrested accused/Rehan, while in custody disclosed the name of the present

Applicant as one of the co-accused who had conspired along with others for the sale and transport of prohibited contraband Gutkha in the State of Maharashtra. The Commissioner of Food Safety, in exercise of powers under Section 13 of the Food Safety and Standards Act, 2006, issued a notification prohibiting the manufacture, sale, and transport of Gutkha, Pan Masala, and scented tobacco in the State of Maharashtra. A huge quantity of such contraband was found when the raid was conducted. The two vehicles found at the spot had been abandoned when the police arrived upon receiving secret information that contraband was being transported in violation of the notification issued under Section 30 by the Commissioner of Food Safety. Thus, custodial interrogation of the Applicant is necessary to reveal the names of other persons involved in the present crime and to ascertain the sources from whom the Applicant had procured the huge quantity of contraband intended for distribution in the State of Maharashtra. Hence the application may be rejected.

6. I have gone through the investigation papers made available by the learned APP. A perusal of the police report submitted by the Investigating Officer shows that the arrested accused, Shaikh Rehan Shaikh Raheem, was arrested on 29.12.2025 at 12:46 hours. He was taken into custody remand pursuant to the orders of the Magistrate. While in custody, the arrested accused Rehan revealed the name of the present Applicant as the driver of another vehicle, namely Swift Dzire bearing Registration No. MH-01/BT-6144, and further disclosed

that the offence was committed by him with the assistance of the present Applicant. The pick-up van bearing Registration No. MH-23/AU-1015 was found abandoned after meeting with an accident, and a huge quantity of contraband was recovered from the said pick-up van. At some distance, another vehicle, the Swift Dzire, was found standing alone facing towards Beed. On inspection, a large quantity of contraband Gutkha/Pan Masala was also found in the said vehicle, which was seized from the spot.

7. The investigation papers show that the arrested accused, Rehan, was driving the pick-up van bearing Registration No. MH-23/AU-1015. The said pick-up van was originally registered in the name of Matte Mahadev Devrao and was subsequently transferred in the name of the arrested accused Rehan. The RTO papers showing the name of Matte Mahadev Devrao as the registered owner of the said vehicle have also been received from the Regional Transport Office. The investigation papers further contain an agreement for sale of the said vehicle executed between Matte Mahadev Devrao and accused Shaikh Rehan Shaikh Raheem on 02.07.2025. The Applicant has relied upon order passed by the Single Judge in ABA No. 1630/2021 in the case of **Israr Mansoori Mustaq Mansoori Vs. the State of Maharashtra**. The perusal of order dated 10.02.2022 in above judgment would also show that the learned Single Judge of this Court has upheld that Section 328 IPC is clearly made out in identical cases. However the Applicant therein was released on bail

only on the ground that there was no material except from the statement of co-accused. In the present case there are documents to show that Rehan was owner of other vehicle and present Applicant was driving Swift vehicle to transport the contraband. Thus, there is ample evidence to bring home the guilt of the present Applicant in the said crime. The State of Maharashtra has enacted a policy prohibiting the manufacture, possession, sale, and transport of contraband Gutkha, Pan Masala, and scented tobacco by issuing a notification under Section 30 of the Food Safety and Standards Act, 2006. The Division Bench of the Bombay High Court at its Aurangabad Bench, in its order dated 29.11.2018 passed in the case of **Vasim Jamil Shaikh Vs. State of Maharashtra** in Criminal Application No.4353/2016, held that Section 328 of the IPC is clearly attracted in identical cases. Section 328 IPC corresponds to the present Section 123 of the Bharatiya Nyaya Sanhita (BNS). The offences are serious in nature and is punishable with 10 years of imprisonment. The statement of the co-accused recorded during the course of investigation is the only lead available, and it can be considered of vital importance for the prosecution to proceed further in resolving the crime and completing the investigation from all angles.

8. The learned Counsel for the Applicant submits that the Applicant is implicated only on the basis of statement of co-accused in view of the judgment in the case of Tofan Singh v. State of Tamil Nadu, MANU/SC/0797/2020: 2020:INSC: 620: (2021) 4 SCC 1. The

same is not applicable.

. The Hon'ble Supreme Court in the case of State of Haryana Vs. Samarth Kumar, MANU/SC/1173/2022 was pleased to hold as under :

The High Court decided to grant pre-arrest bail to the respondents on the only ground that no recovery was effected from the respondents and that they had been implicated only on the basis of the disclosure statement of the main accused, Dinesh Kumar. Therefore, reliance was placed by the High Court in the majority judgment of this Court in Tofan Singh v. State of Tamil Nadu, MANU/SC/0797/2020: 2020:INSC: 620: (2021) 4 SCC 1.

In cases of this nature, the respondents may be able to take advantage of the decision in Tofan Singh v. State of Tamil Nadu (supra), perhaps at the time of arguing the regular bail application or at the time of final hearing after the conclusion of the trial.

To grant anticipatory bail in a case of this nature is not really warranted. Therefore, we are of the view that the High Court fell into an error in granting anticipatory bail to the respondents." (Emphasis supplied)

. The Single Bench of the Himachal Pradesh High Court in the case of Rahul Verma Vs. State of Himachal Pradesh, MANU/HP/2530/2025, was pleased to hold as under :

17. Thus, the submission that the statement made by the co-accused is inadmissible and the petitioner is entitled to pre-arrest bail cannot be accepted.

9. Since a huge quantity of contraband is involved in the present crime, which was sought to be transported and distributed in the State of Maharashtra where there is a specific prohibition on the sale of such articles, the Applicant is found to be involved in the

offence of sale and transport of such contraband. The custodial interrogation of the Applicant is necessary to find out how many other accused persons are involved in the present crime. Hence, I am not inclined to exercise discretionary powers to grant anticipatory bail to the Applicant. The application is devoid of substance and merit and is hereby rejected.

MEHROZ K. PATHAN
JUDGE

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