IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

ANTICIPATORY BAIL APPLICATION NO.2869 OF 2026

Akib Shakeel Shaikh …Applicant

Versus

The State of Maharashtra …Respondent

Mr. Rajesh More, for the Applicant.
Mr. S. S. Ghag, APP, for the Respondent-State.

CORAM: MADHAV J. JAMDAR, J.
DATE: 16 OCTOBER 2026

P.C.:

1. Heard Mr. More, learned Counsel appearing for the Applicant and Mr. Ghag, learned APP for the Respondent-State of Maharashtra.

2. By this Anticipatory Bail Application filed under Section 482 of the Bharatiya Nagarik Suraksha Sanhita, 2023 ("**BNSS**"), the Applicant is seeking pre-arrest bail in connection with CR No.510 of 2026 registered on 19th September 2026 with Khadak Police Station, Pune City, for the offences punishable under Sections 123, 223, 274 and 275 of the *Bharatiya Nyaya Sanhita, 2023* ("**BNS**") and Sections 30(2)(a), 31, 26(2), 3, 4, 3(1)(zz)(iv) and 59 of the *Food Safety and Standards Act, 2006*.

3. As per the prosecution case, the Applicant is found dealing with prohibited products i.e. *Gutkha*, Pan Masala and Flavored Tobacco and selling the same illegally.

4. Mr. More, learned Counsel appearing for the Applicant submitted that except offence under Section 123 of BNS, all other offences are bailable offences. He submits that as far as Section 123 of BNS is concerned, the Supreme Court is considering the applicability of Section 123 of BNS (i.e. Section 328 of the *Indian Penal Code, 1860*) to the similar cases. He submits that although there is one antecedent, the Applicant was acquitted in that case.

5. On the other hand, Mr. Ghag, learned APP, strongly opposes the Anticipatory Bail Application. He submits that the offence is very serious and, therefore, the Anticipatory Bail Application be rejected. He submits that there is one antecedent against the Applicant and, therefore, the Anticipatory Bail Application be rejected.

6. Mr. Ghag, learned APP, submits that, if this Court is inclined to grant anticipatory bail, then the Applicant be directed to give an undertaking in terms of the Order of the Supreme Court in the case

of ***Abhijit Jitendra Lolage v. State of Maharashtra***[1] and more particularly relies on following condition imposed by the Supreme Court in case of similar offences:

> "*It is deemed appropriate to impose the condition – "I, Abhijeet Jitendra Lolage do* ***undertake to not deal with Gutkha, that is, Pan Masala with Tobacco****". In case, the appellant – Abhijeet Jitendra Lolage* ***violates the terms and conditions of bail, including the undertaking imposed, it would be open to the prosecution to seek cancellation of bail.***"
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> (Emphasis added)

7. Mr. More, learned Counsel appearing for the Applicant, after taking the instructions, submits that the Applicant will give an undertaking.

8. The Supreme Court in the said Order has imposed the above condition in case of similar offence.

9. Perusal of the record shows that except the offence under Section 123 of BNS, the other offences are bailable offences. The issue whether Section 123 of BNS will apply to similar cases is

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pending before the Supreme Court. As the Applicant is ready to give the undertaking that he will not deal with Gutkha and Tobacco products, in any manner whatsoever, the case is made out for grant of Anticipatory Bail.

10. However, as there is one antecedent, the stringent conditions are required to be imposed.

11. In view of above, the following Order is passed:

ORDER

a) In the event of arrest of the Applicant - Akib Shakeel Shaikh in connection with CR No.510 of 2026 registered with Khadak Police Station, Pune City, the Applicant is directed to be released on bail on his furnishing PR Bond in the sum of Rs.1,00,000/- with one or two solvent sureties in the like amount.

b) The Applicant shall attend the concerned Police Station once in a week i.e. on each Sunday between 11:00 am to 01:00 pm, till completion of the trial.

c) The Applicant to furnish an undertaking that he will not deal with banned products i.e. *Gutkha*, Pan Masala with

Tobacco products, in any manner whatsoever. Such undertaking is to be filed in this Court within a period of two weeks from today. The Applicant to strictly comply with the said undertaking.

d) The Applicant shall furnish his cell phone number and residential address to the Investigating Officer and shall keep the same updated, in case of any change thereto.

e) The Applicant shall not directly or indirectly make any inducement, threat, or promise to any person acquainted with the facts of the case so as to dissuade such a person from disclosing the facts to the Court or to any Police personnel.

f) The Applicant shall not tamper with the prosecution evidence and shall not contact or influence the Complainant or any witness in any manner.

g) The Applicant shall not leave India without prior permission of the Court.

h) In case, the Applicant violates the terms and conditions of bail, including the undertaking, it would be open to the prosecution to seek cancellation of bail.

12. The Anticipatory Bail Application is disposed of accordingly.

[MADHAV J. JAMDAR, J.]