

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION**

ANTICIPATORY BAIL APPLICATION NO.87 OF 2026

Dipen Arvind Gala

...Applicant

Versus

The State of Maharashtra

...Respondent

Mr. Tuushar Sonawane, for the Applicant.

Ms. S. M. Yadav, APP, for the Respondent-State.

CORAM: MADHAV J. JAMDAR, J.

DATED: 13 JANUARY 2026

PC:-

1. Heard Mr. Sonawane, learned Counsel appearing for the Applicant and Ms. Yadav, learned APP for the Respondent-State of Maharashtra.

2. By the present Anticipatory Bail Application filed under Section 482 of the *Bharatiya Nagarik Suraksha Sanhita, 2023*, the Applicant is seeking pre-arrest bail in connection with CR No.105 of 2025 registered on 12th June 2025 with the Alibag Police Station, District - Raigad, for the offences punishable under Sections 59, 31, 26(4) and 26(2) of the *Food Safety And Standards Act, 2006* and Sections 3(5) and 123 of the *Bharatiya Nyaya Sanhita, 2023* (“**BNS**”).

3. As per the prosecution case, the Applicant was selling contraband material which is unsafe and dangerous for the health of people.

4. It is the submission of Mr. Sonawane, learned Counsel that except the 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 (i.e. Section 328 of IPC) to the similar cases. He therefore, states that the Anticipatory Bail be granted.

5. On the other hand, Ms. Yadav, learned APP strongly opposes the Anticipatory Bail Application. She submits that the offence is very serious and therefore, the Anticipatory Bail Application be rejected. On instructions, learned APP submits that there are no antecedents.

6. Learned APP submits that if this Court is inclined to grant Anticipatory Bail then the Applicant be directed to give undertaking in terms of order of the Supreme Court in the case of

*Abhijit Jitendra Lolage vs 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 .”***

(Emphasis added)

Mr. Sonawane, learned Counsel appearing for the Applicant submits that the Applicant is ready to give the undertaking and in fact the same is filed along with the Anticipatory Bail Application (Pages 112-113). The said undertaking is accepted.

7. The Supreme Court in the said order has imposed the above condition in case of similar offence.

8. 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

1 SLP (CrI.) Diary No.2806/2023

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.

9. In view thereof, the following Order is passed:

ORDER

- (a) In the event of arrest of the Applicant - Dipen Arvind Gala, in connection with CR No.105 of 2025 registered with the Alibag Police Station, District - Raigad, he 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 month till filing of the Charge-sheet and shall cooperate with the investigation.
- (c) The undertaking given by the Applicant that he will not deal with banned products i.e. Gutkha, Pan Masala with Tobacco products in any manner whatsoever is accepted.
- (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.

10. The Anticipatory Bail Application is disposed of accordingly.

[MADHAV J. JAMDAR, J.]