

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
ANTICIPATORY BAIL APPLICATION NO.300 OF 2026

Sumit Durgaprasad Gupta
Versus

...Applicant

The State of Maharashtra

...Respondent

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Mr. Shubham Sudam Sane h/f. Mr. Anup Lahoti, for the Applicant.
Ms. R. V. Newton, APP, for the Respondent-State.
Mr. Amol Balu Jagtap, HC, attached to Crime Branch ANC-2, Pune
City, Pune, present.

CORAM: MADHAV J. JAMDAR, J.
DATED : 3rd FEBRUARY 2026

PC:-

1. Heard Mr. Sane, learned Counsel appearing for the Applicant and Ms. Newton, learned APP appearing for the Respondent-State.
2. This application is filed under Section 482 of the Bharatiya Nagarik Suraksha Sanhita, 2023 seeking pre-arrest bail in connection with C.R. No.544 of 2025 registered with Loni Kalbhor Police Station, Pune, for the offences punishable under Sections 123, 223, 274, 275 and 3(5) of the Bharatiya Nyaya Sanhita, 2023 and Sections 26(2)(i), 26(2)(ib), 27(3)(d), 27(3)(e), 59 and 63 of the Food Safety and Standards Act, 2006.

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. Sane, learned Counsel appearing for the Applicant 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. Newton, 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 is one antecedent of similar nature.

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. Sane, learned Counsel appearing for the Applicant after taking the instructions submits that the Applicant will give the undertaking.

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 pending before the Supreme Court. As the Applicant is ready to

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

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. However, as there is one antecedent, it is necessary to impose stringent conditions on the Applicant.

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

ORDER

- (a) In the event of arrest of the Applicant-Sumit Durgaprasad Gupta in connection with C.R. No.544 of 2025 registered with the Lonikalbhor Police Station, Pune, the Applicant is directed to be released on bail on his furnishing P.R. 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 Lonikalbhor Police Station, Pune, once in a week i.e. on every Sunday between 11:00 a.m. to 02:00 p.m. till conclusion 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 learned Trial Court/concerned Sessions 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.]