



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
NAGPUR BENCH : NAGPUR
CRIMINAL APPLICATION NO. 118 OF 2026

Monu s/o Siyaram Yadav and anr.

..vs..

State of Maharashtra

Office Notes, Office Memoranda of Coram,
 appearances, Court's orders of directions
 and Registrar's orders

Court's or Judge's orders

Shri S.A. Mohta, Advocate for the applicant.
 Mrs. M.H. Deshmukh, APP for the State.

CORAM: M.M. NERLIKAR, J.
DATE : 16.02.2026.

Heard.

2. By way of this application, the applicant is seeking bail in connection with Crime No.1083 of 2025 registered with the Pandharkawda Police Station, Yavatmal for the offence punishable under Sections 123, 274, 275, 223 of the Bharatiya Nyaya Sanhita, 2023 read with Sections 26(2), 27(3), 30(2)(a) and 59 of the Food Safety and Standard Act, 2006.

3. The FIR has been lodged by the Food Safety Officer alleging that the applicants are the driver and cleaner respectively of the truck, which was stopped by the API along with other police staff and panchas. The truck was possessing contraband article i.e. scented tobacco. worth approx Rs.45 lakhs, which they wanted to transport from Hyderabad to Indore. However, that was intercepted by the police officials and applicants were arrested.

4. Learned Counsel for the applicant submits that all the offences are bailable except Section 123 of the Bharatiya Nyaya Sanhita, 2023. The issue is pending before the Supreme Court in respect of applicability of

Section 123 of the BNS (328 of the Indian Penal Code) before the Hon'ble Supreme Court. The applicants are poor persons and are earning livelihood by driving truck therefore, the applicants deserve to be enlarged on bail.

5. On the other hand, learned APP opposes the present application by submitting that both applicants were found in possession of contraband article i.e. scented tobacco while traveling through the Maharashtra State and the same is prohibited as per Government Resolution dated 16.7.2025. The investigation is going on and main culprits are absconding. Therefore, the applicants may not be enlarged on bail.

6. I have heard the rival submission and perused the material on record. It appears that the truck was plying from Hyderabad to Indore carrying scented tobacco. worth approx Rs.45 lakhs. However, the government resolution prohibits the items referred in the notification and stated that it cannot be transferred from the State of Maharashtra. So far as the transportation is concerned, all the offences which are levelled against the applicants are bailable except Section 123 of the BNS. The issue of applicability of Section 123 of BNS is concerned, is pending before the Hon'ble Supreme Court. In this view of the matter, I am inclined to enlarge the applicants on bail on certain terms and condition. Hence the following order :

- (a) The application is allowed.
- (b) The applicants 1.Monu s/o Siyaram Yadav and 2.Budhsingh s/o Babu Parihar in connection with Crime No.1083 of 2025 registered with the

Pandharkawda Police Station, Yavatmal be released on bail on furnishing P.R. bond of Rs.50,000/- each, with one local surety and with permanent residence surety in the like amount.

- (c) The applicants shall not directly or indirectly make any inducement, threat or promise to any person acquainted with the facts of the case, as also shall not tamper with the evidence.
- (d) The applicants shall provide their residential address and cell number to Police Station concerned and shall not change his place of residence without prior intimation to the Investigating Agency.
- (e) The applicants shall attend each and every date of trial regularly. If they fails to attend the trial for two consecutive dates, or fails to comply with the aforesaid conditions, their default would entail the State to ask for cancellation of bail.

7. The observations are *prima facie* in nature and the Trial Court shall not be influenced by the same .

8. All Misc. application(s), pending if any, shall stands disposed of accordingly.

(M.M. NERLIKAR, J.)