



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
NAGPUR BENCH AT NAGPUR

CRIMINAL APPLICATION (ABA) NO. 347 OF 2026

MOHAMMAD HUSSAIN GULAAM

VS

THE STATE OF MAHARASHTRA THR PSO PS TALEGAON DIST AMRAVATI GRAMIN

Office Notes, Office Memoranda of Coram, Appearances, Court's orders or directions and Registrar's orders	Court's or Judge's orders
---	---------------------------

Shri A.A.Naik, Sr. Advocate a/b. Shri R.R.Deo, Advocate for applicant.
Shri C.A.Lokhande, APP for non-applicant/State.

CORAM: RAJNISH R. VYAS, J.

DATED : 30th APRIL, 2026.

Apprehending arrest, the applicant has preferred this application in connection with First Information Report No. 84/2026, dated 15/04/2026, registered with Police Station Talegaon, Amravati (Rural), for the offences punishable under Section 59 of the Food Safety Standards Act, 2006 and Sections 123, 223, 274 and 275 of the Bharatiya Nyaya Sanhita, 2023 (for short, 'BNS').

2. The FIR was lodged at the behest of Assistant Police Inspector attached to P.S. Talegaon. In short, it is the case in FIR that, the shop owned by the present applicant was raided, and several packets of scented tobacco were found. It was alleged that at the time of conducting raid, the accused Yogesh/employee of the applicant was present in the shop.

3. Mr. Akshay Naik, learned Senior Counsel a/b. Shri Rohan Deo, learned counsel has argued that a moot question is whether the offence under Section 328 of the Indian Penal Code/Section 123 of BNS can be invoked

against the applicant ? He invited my attention to the orders passed by the Hon'ble Apex Court on 07/05/2024 and 06/08/2024 in Special Leave to Appeal (Crl.) No(s). 6212/2024. He further submitted that, though the applicant has three criminal cases registered against him, he has been acquitted in two of them. According to him, even the Hon'ble Apex Court, while granting interim protection vide order dated 06/08/2024, had taken into consideration the fact that the FIRs were registered against the applicant therein. He thus prayed for grant of ad-interim anticipatory bail.

4. Per contra, the learned APP for the State has opposed the application on the ground that the applicant is a habitual offender. He prayed time to file reply.

5. With the assistance of the respective learned counsels, I have gone through the record of the case. It is not disputed that the applicant was earlier involved in the three similar offences. If the orders passed by the Hon'ble Apex Court dated 07/05/2024 and 06/08/2024 are taken into consideration, same would reveal that the question of applicability of Section 123 of the BNS is pending consideration. The order dated 06/08/2024 passed by the Hon'ble Apex Court also shows that the applicant in the Special Leave to Appeal (Crl.) was having three criminal cases registered against him. But considering the question regarding applicability of Section 328 of IPC i.e. 123 of the BNS, ad-interim relief was granted. In that view of the matter, the following order is passed:-

ORDER

- i) Issue notice to the respondent, returnable on 07/05/2026.
- ii) The learned APP waives notice for the respondent/ State.
- iii) In the event of arrest, in connection with First Information Report No. 84/2026, dated 15/04/2026, registered with Police Station Talegaon, Amravati (Rural) for the offences punishable under Section 59 of the Food Safety Standards Act, 2006 and Sections 123, 223, 274 and 275 of the Bharatiya Nyaya Sanhita, 2023 (for short, 'BNS'), the applicant be released on ad-interim anticipatory bail on furnishing a P.R. bond of Rs. 55,000/- (Rupees Fifty Five Thousand Only) with one solvent surety in the like amount.
- iv) The applicant shall attend the concerned Police Station on 3rd of May, 2026 between 12.00 p.m. to 03.00 p.m. and thereafter, as and when required by the investigating agency.
- v) The applicant shall cooperate with the investigating agency and shall not tamper with the prosecution evidence or influence the witnesses.
- vi) The applicant shall not leave the India without prior permission of the Court.

(RAJNISH R. VYAS, J.)