

MHKO010030152026 	ORDER PASSED BELOW EXH.1 IN <u>CRI. BAIL APPLN.NO.729/2026</u>
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Present application is filed by accused No.1 Dhanaji Satappa Parit under Section 483 of the Bharatiya Nagarik Suraksha Sanhita 2023 in C.R.No.392/2026 of Karveer police station for the offences punishable U/s.26(2)(i), 26(2)(iv), 27(3)(e), 30(2)(a) and 59 of The Food Safety and Standards Act 2006 and U/s.123, 223, 273, 274, 275 of BNS 2023. On behalf of accused necessary affidavit and details as per the directions given in **Zeba Khan Vs. State of Uttar Pradesh others (2026 INSC 144)** is given by his relative as follows -

A) Case details :-

State and District	Maharashtra, Kolhapur
Police Station	Karveer
FIR No.	392/2026
Date of FIR	14-07-2026
Sections invoked	U/s.26(2)(i), 26(2)(iv), 27(3)(e), 30(2)(a) and 59 of The Food Safety and Standards Act 2006 and U/s.123, 223, 273, 274, 275 of BNS 2023.
Maximum punishment prescribed	Imprisonment which may extend upto 10 years and shall also be liable to fine.

B) Custody and Procedural Compliance :-

Date of Arrest	14-07-2026
Total period of custody undergone	Till today

C) Status of trial of investigation :-

Stage of proceedings	Investigation
Total number of witnesses cited in the charge-sheet	Charge-sheet not filed
Number of prosecution witnesses examined	N.A.

D) Criminal Antecedents :-

F.I.R. police station	N.A.
Sections	N.A.
Status	N.A.
(Pending/acquitted/convicted)	N.A.

E) Previous Bail Applications :-

Court	N.A.
Case No.	N.A.
Outcome of case	N.A.

F) Coercive Process :-

Whether any NBW was issued	N.A.
Whether declared a proclaimed offender	N.A.

2] Informant i.e. Food Safety Officer Smt. Shhradha Prakash Salunkhe lodged FIR on 14-07-2026 contending that Gutkha, pan masala, scented beetle-nut, tobacco its possession, production and distribution of stock and it's sale is banned in the State of Maharashtra by Circular No.असुमाअ/अधिसूचना/411/2025/7 dated 16-07-2025. In State of Maharashtra, the said ban is for a period of 1 year from 16-07-2025. On 14-07-2026 informant along with panch witnesses and other Food & Safety Officers had went in Shravani Laundry at village Hasur Dumala, Tal. Karveer and after inspection of the premises she found, stock of banned items i.e. RD pan masala 164 packets, Vimal pan masala 51 pouches, 48 pouches of V1 Tobacco, 2 boxes of N scented tobacco, 22 pouches of RN scented tobacco, 6 pouches of Raj Kolhapuri pan masala and 5 pouches of Raj Jarda tobacco (the worth of the said Gutkha and Tobacco is of Rs.14,655/-). The above contraband was found in possession of applicant/accused Dhanaji Satappa Parit.

3] The Ld. Counsel for the applicant submits that, the applicant is innocent and has been falsely implicated in the present case. Section 123 of B.N.S. is not attracted in cases of mere possession, storage or transportation of Gutkha. Section 123 of B.N.S. requires proof of administration of poisonous, noxious or harmful substances. In short a deliberate act of causing another person to consume or be

exposed to such substances. Mere possession without any allegation of administration or intent to cause harm, does not constitute to the offence under Section 123 of B.N.S. It is further argued that the food, safety and Standards Act 2006 is a special legislation that overrides general penal provisions like Section 123 of B.N.S. in food related matters. The Hon'ble Supreme Court has held that, FSSA overrides all food related laws and simultaneous prosecution under both the FSSA and IPC provisions is impermissible. In present case the investigation is practically complete and muddemal recovered. No further recovery is pending against the applicant.

4] The applicant is in judicial custody and further incarceration would violate his fundamental right. The applicant is ready and willing to abide by any condition if imposed upon him.

5] The prosecution has opposed present bail application by filing their say on Exh.6. It is contended that the accused was found in possession of substantial quantity of banned Gutkha, indicating his involvement in the offence, release on bail may lead to tampering with evidence or repetition of the offence. The gravity of the offence and the health hazards associated with Gutkha consumption warrant denial of bail.

6] Heard both sides, perused the material on record. The Ld. Counsel of accused is relying upon **Vijay Sevashankar Upadhyay and others Vs. State of Maharashtra, 2015 DGLS (Bom.) 1052** wherein the Hon'ble High Court has observed that, *"A plain reading of the said Section reveals that administering or causing any person to take any poison or any stupefying, intoxicating or unwholesome drug or other thing, is one of the essential ingredients of the section. In the instant case prima facie there is no material to indicate that the applicants herein had either administered or caused any person to take Gutkha or any poison or stupefying, intoxicating or unwholesome drug. In my considered view, prima facie mere possession of Gutkha would not attract the provisions of Section 328 of Indian Penal Code. In the light of above facts and circumstances, the applicants are ordered to be released on bail.* Further the Ld. Counsel of accused is also relying upon **Ram Nath Vs. State of Uttar Pradesh and others 2024 DGLS (SC) 138** wherein it is held by the Hon'ble Apex court that, *"the Food Safety and Standards Act overrides all food relating laws and there can be no simultaneous prosecution under both the FSSA and IPC provisions relating to food.*

7] In view of above facts that the accused is remanded in judicial custody. Further the contraband articles have been seized. As regards the offences under the FSS Act

Section 59 prescribes punishment upto 6 months and fine upto 1 Lakh for unsafe food not causing any injury. The primary non bailable rigour in this case arises from the Section 123 of B.N.S. but its applicability to present case is a matter of trial but in respect of bail certainly ratio laid in Vijay Sevashankar's case cited supra is applicable to present facts. In above circumstances, application deserves to be allowed. Accordingly, following order.

ORDER

1. Application is allowed as follows ;
2. Applicant Dhanaji Satappa Parit be released on bail in C.R.No.392/2026 of Karveer police station for the offences punishable U/s.26(2)(i), 26(2)(iv), 27(3)(e), 30(2)(a) and 59 of The Food Safety and Standards Act 2006 and U/s.123, 223, 273, 274, 275 of BNS 2023, on his executing PR. bond of Rs.30,000/- with surety in like amount on following conditions :-
 - (i) Applicant shall not tamper with the prosecution's evidence in any manner and shall not indulge any type of criminal activity or the similar offence.
 - (ii) Applicant shall not directly or indirectly make any inducement, threat or promise to any person acquainted to the facts of the case so as to dissuade him for disclosing such facts.

(iii) Applicant is directed to attend the Karveer police station on every second and fourth Saturday of each month till filing of charge-sheet.

(iv) Applicant to co-operate the Investigating machinery during investigation.

v) Applicant shall submit his Aadhar card, PAN card and photo address proof.

3. Bail before the Ld. J.M.F.C.

4. Since the bail application is filed online, separate physical copy of this order is not maintained. All concerned to act upon digitally signed copy of this order uploaded online.

Kolhapur.
Dt.: 01-08-2026.

(Smt. S. Y. Deshmukh)
Additional Sessions Judge,
Kolhapur.