

MHAH270009
532026

: **Order below Exh.1 in Cri.(Bail)M.A.No.521/2026.** :



Saddam Kamruddin Shaikh

Vs.

State of Maharashtra.

Order below Exh.1

1] The applicant prayed for regular bail under section 483 of the Bhartiya Nagrik Suraksha Sanhita, 2023 (in short “BNSS”) in CR. No.84/2026 registered with Jamkhed police station, for the offence punishable under sections 274, 275, 123 read with 3(5) of Bhartiya Nyaya Sanhita, 2023, (in short “BNS”) and Section 26(1), 26(2)(i), 57, 59 of Food Safety and Standard Authority of India (in short ‘FSSAI’).

2] It is the prosecution case that the officer of the Food Safety department and police conducted the raid at the premises of accused Ramdas Ubale situated at Fakrabad, Jamkhed, Dist. Ahmednagar alongwith panchas. One vehicle No.MH17/K7946 found in the said premises. In the said place 10 plastic drums of 200 liter each capacity found which were unloaded from the vehicle. Out of that four drums were empty and 6 drums were contained milk like liquid approximately 1198 liter. The said liquid is alleged to have prepared from parafin oil and unknown chemicals and same is used for increase the fat contents of the milk. The 12 bags of white coloured powder of 25 Kg. each and 8 cans containing milk approximately 320 liter were also found there. The officer of the Food Safety department took samples of the liquid milk powder as per the provisions of the Food Safety and Standard Authority of India and prepared panchnama. The procedure was videographed. Then the officer of Food Safety department made report of the incident and on the basis of his report, offence came to be registered. The

accused namely Samir Kamruddin Shaikh, Aaftab Kalim Shaikh and Ramdas Navnath Ubale came to be arrested on the spot.

3] Learned advocate for the applicant submitted that involvement of the applicant is shown merely because he is brother of accused No.1 Samir Shaikh and there are three money transactions worth Rs.750/-. Learned advocate submitted that the accused No.1 and the applicant are real brothers and merely because there are two three money transactions it cannot be said that the applicant is involved in crime in question. Learned advocate further submitted that no any material has been seized from the possession of applicant. Learned advocate further submitted that the applicant has been arrested on 17.06.2026 and after initial custody he has been remanded to Judicial custody. Thus further custodial interrogation with the applicant is not warranted. The investigation is almost completed and police have submitted chargesheet against other accused. Thus further incarceration of the applicant would not serve gainful purpose. The offences are not punishable with imprisonment for life or death. Ld advocate further submitted that on the basis of FIR of the Food Safety officer offence came to be registered at Jamkhed police station for abovesaid offences under Indian Penal Code as well as Food Safety and Standards Act (in short FSSA). He further submitted that the FIR itself is illegal and police have no authority to investigate and prosecute under the FSSA. He further submitted that as per Section 42 of FSSA the prosecution shall be launched only complaint of food safety officer. The FIR and prosecution initiated under the Indian Penal Code in violations covered under FSSA is not maintainable.

4] Learned advocate for the applicant further submitted that as per Section 42 of the FSSA the food safety officer is authorized to

inspect the food business, draw samples and send them to Food analysis and after scrutiny the report of Food analysis he shall file the complaint before the court. Learned advocate further submitted that in this case on the basis of FIR of Food safety officer, the police launched the investigation and submitted chargesheet against some of the accused which is against the provisions of Section 42 of FSSA. Thus entire proceeding is vitiated.

5] Learned advocate lastly submitted that the accused has been arrested on **17.06.2026** and after initial PCR he has been remanded to MCR. Nothing incriminating recovered from the possession of the applicant and except money transaction and telephonic conversation there is no material to connect the accused in the offence. Thus further custodial interrogation with the applicant is not necessary. There is no allegation of causing death or grievous injury or simple injury to any person and hence punishment under Section 59 of the FSSA would be upto 3 months with fine which may extend to 3 lakhs. There is no criminal antecedents at the credit of the applicant. The co-accused are released on regular bail. Hence the applicant is entitled for bail on ground of parity. The applicant is ready to abide by the conditions that may be imposed by the Court and co-operate investigating agency. Hence the applicant be released on regular bail.

6] The prosecution opposed the application by filing reply below **Exh.6**. It is stated that the offence is serious in nature. There is money transaction of the applicant with co-accused No.2. The present applicant alongwith co-accused 1 to 7 prepared liquid by using chemical for manufacturing artificial milk and supplied to other accused. There is a criminal antecedents of similar nature and FIR No.303/2023 for

offences punishable under Section 328, 272, 273, 420 of IPC and Section 26, 26(2)(i), 59 of FSSA has been registered at Shrigonda police station. There is a numbers of phone calls between applicant and accused No.1 Samir and accused No.2 Aftab. The alleged offence is serious and affecting the health of the public at large. There is possibility of repetition of offence. The accused is involved in the illegal business of manufacturing milk like liquid and there is sufficient material on record showing involvement of the applicants in the crime. There is possibility of pressurizing and threatening the witnesses. Learned APP submitted that the accused manufactured adulterated milk by using chemicals and sold in the market causing danger to the health of public at large.

7] Perused the FIR and material on record. The FIR has been lodged by the Food Safety officer alleging that on 14.02.2026 the first informant with police conducted raid at the premises of co-accused Ramdas Ubale and seized the adulterated milk and chemicals. The officers of Food Safety department and police seized the adulterated milk and chemicals under the panchnama and then the informant made report of the incident. Hon'ble Apex Court in the matter of ***Ram Nath Vs. State of Uttar Pradesh and others (2024 (1) Crimes189)*** held that the provisions of FSSA are having overriding effect over all food related laws and Indian Penal Code and there cannot be a simultaneous prosecution under FSSA and IPC. In the case in hand, the FIR has been lodged under the provisions of IPC as well as FSSA. The Hon'ble Bombay High Court in the matter of ***Prasad Vs. State of Maharashtra and Mohommad Sahil Vs. State of Maharashtra (2025(3) BomCR (Cri) 658)*** held that only the Food Safety officer are authorized to launch the prosecution under FSSA and police have no authority to investigate and prosecute the offences under FSSA.

8] The accused came to be arrested on **17.06.2026** and after initial PCR remanded to MCR. Thus the further custodial interrogation with the applicant is not necessary. The offences are not punishable with imprisonment for life or death. Learned advocate for the applicant also submitted that the provisions of Section 328 are not attracted to the present case. The involvement of the accused is shown on the basis of money transactions and telephonic conversation with co-accused No.1 and 2. Learned advocate for the applicant submitted that no incriminating material seized from the possession of the accused and except telephonic conversation and money transaction there is nothing on record to connect the applicant/accused with the alleged offence. There is nothing in the chargesheet showing any incriminating material has been seized from the applicant indicating his involvement in the alleged crime. Thus, in view of the above referred Judgments and factual aspect of the matter, allegations in the FIR and material on record, I am of the view that applicant has made out case for exercising discretion in his favour. Thus considering the factual aspect of the matter, I am of the opinion that applicant has made out case for exercising discretion in his favour with conditions. Hence I pass following order.

: ORDER :

- (1) Applicant/accused **Saddam Kamruddin Shaikh** be released on PR and SB of Rs. 30,000/- with one surety in the like amount connection with Crime No.84/2026 registered with Jamkhed police station, for the offence punishable under sections 274, 275, 123 read with 3(5) of Bhartiya Nyaya Sanhita, 2023, (in short “BNS”) and Section 26(1), 26(2)(i), 57, 59 of Food Safety and

Standards Act, on following conditions :-

- i] The applicant/accused 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 them from disclosing such facts to the court or to any police officer.
- ii] The applicant/accused shall not contact the informant and prosecution witnesses directly or indirectly.
- iii) The accused shall not commit any offence.
- iv) The accused shall not hamper or tamper prosecution evidence.
- v) The accused shall furnish his residential address and mobile number to the investigating officer and update the same till conclusion of trial.
- vi) Bail before concerned Court.

(The order is dictated and pronounced in open Court)

Date :- 31/07/2026.

(S.H. Salunkhe)
Additional Sessions Judge,
Shrigonda.