



Cri.M.A. No. 120/2026.
Sagar Bhimrav Pokale Vs. The State of Maharashtra- Masur
Police Station
CNR No.- MHST070022222026

ORDER BELOW EXHIBIT NO.01

01. This is an application filed under Sec. 503 of the Bhartiya Nagarik Suraksha Sanhita, 2023 to unlock sealed Pan shop at the Masur Police Station, in C.R. No. 53/2026, registered for the offence punishable under Section 26(2) (i)(iv), 27(3)e, 30(2)a, 59 of the Food Safety and Standards Act, 2006 as well as Section 123, 223, 274 and 275 of the B.N.S., 2023.

02. It is contention of the applicant that, the applicant has been carrying on the business in the name and style of “Sagar Pan Shop” and entire family of the applicants is solely dependent upon the income derived from the said business. Due to seal of the said “Pan Shop” he has suffered irreparable loss and damages which cannot be compensated in terms of money. He is sole earning member of his family. Further, food materials stocked in the shop are perishable in nature, and if shop is not open said food materials will be perished, it will cause huge loss to the applicant. The possibility of the damage to the seized properties cannot be ruled out if kept lying at the police station. Hence, he prayed for unlock and open seized shop.

03. The Investigating Officer, has filed say at Exh.05 and strongly objected this application. It is contention that alleged offence is in connection with banned articles by the Government of Maharashtra. The accused was found in possession of various Gutakha products banned by the Government. The accused is not providing any information during the investigation regarding where he gets said Gutakha. There is possibility that he will use said pan Shop to commit similar offence. Therefore, prayed for rejection of the application.

04. Learned A.P.P. has filed her say and raised objection on ground that, the said shop used to sell Tobacco, Panmasala is illegal. It is necessary to file documents released lawful ownership or possession. The premises seized in connection with alleged offence. Therefore, prayed for rejection of the application.

05. The applicant has filed copy of the FIR and his Aadhar Card along with list at Exh.3. Perused said documents.

06. Perused the application, documents enclosed, say of the Investigating officer and learned A.P.P.

07. Heard learned advocate on behalf of the applicant and learned A.P.P. for the State.

08. The applicant has specifically mentioned that he carries on business of Pan Shop at disputed "Sagar Pan Shop" situated at Masur, Tal Karad, Dist. Satara. The applicant has not produced any license to carry out such business issued by the competent Authority belong to the Government. Therefore, no substance in the contention that the applicant carries on business in alleged premises as earning source of family.

09. Learned advocate on behalf of the applicant has filed case law along with list in ***Laduram vs The State Of Madhya Pradesh*** decided on 16 January, 2020. The Hon'ble High Court of Madhya Pradesh bench at Indore has held that, "10. Looking to the aforesaid facts and circumstances of the case, in the considered opinion of this Court, the trial court as well as revisional court have committed error in rejecting the application filed by the applicant under Section 451 of the Cr.P.C., seeking the direction to the respondents to unlock and open the seized business premises of the applicant without considering the fact that the Food Safety Officer after seizure of food articles from the business premises of the applicant, has already send the one samples of said food articles to State Food Laboratory, Bhopal and remaining food articles were destroyed by him, therefore, no purpose will be served in locking the said business premises of the applicant." In the present matter offence punishable

under Section 123 of the BNS is exclusively triable by the Hon'ble Court of Sessions. Proviso to the Section 232 of the BNSS provides that any application filed before the Magistrate by accused or victim or any person in a case triable by the Court of Sessions shall be forwarded to the Court of Sessions with the committal of the case. Record shows that, investigation is at preliminary stage and charge-sheet/ final report yet to be filed. Therefore, said case law is not helpful to the applicant. Order to unlock alleged premises may interfere with the investigation as the I.O. has strongly objected present application. Considering this preliminary stage application deserves to be rejected. Hence, I pass the following order ;

ORDER

01) The application is rejected.

02) Parties to bear their own costs.

(Pronounced in open Court)

Date:- 03/07/2026.

(A. A. Utpat)
Judicial Magistrate F.C.,
Karad, Dist. Satara. (Court No.5)