

**In the Court of Additional Sessions Judge, Wardha.**

Criminal Bail Application No.284/2026  
(CNR: MHWR010011652026)

**Amir Khan Hamid Khan Pathan,**

**.. Applicant**

**..V/s..**

State of Maharashtra,  
Through P.S.O., Wardha (City).

**.. Non-applicant**

**Order below Exh. 1**  
**(Passed on 24<sup>th</sup> July, 2026)**

1] The applicant has filed the present application under Section 483 of the Bharatiya Nagarik Suraksha Sanhita, 2023, in connection with Crime No. 1050/2026 registered at Wardha (City) Police Station for the offences punishable under Sections 3(1)(zz)(iv), 26(1), 26(2)(iv), 27(3)(e), 30(2)(a), and 59 of the Food Safety and Standards Act, 2006, and Sections 123, 223, 274, and 275 of the Bharatiya Nyaya Sanhita, 2023.

2] It is the case of the prosecution that on 14/07/2026, the Food and Drugs Administration had received a letter from the police requesting it to take action against persons dealing in the sale and purchase of tobacco and other prohibited materials. According to the informant, who is a Food Safety Officer, he received information that the applicant was possessing scented betel nut (supari) at his pan stall, namely Mamu Pan Palace. Accordingly, a raid was conducted at the said pan stall, during which about 250 packets of scented tobacco,

amounting of Rs. 12,000/-, were seized. The applicant was present at the spot and was arrested. Accordingly, an offence punishable under Sections 3(1)(zz)(iv), 26(1), 26(2)(iv), 27(3)(e), 30(2)(a), and 59 of the Food Safety and Standards Act, 2006, and Sections 123, 223, 274, and 275 of the Bharatiya Nyaya Sanhita, 2023 came to be registered against him. The entire contraband material was seized. The applicant is before the Court for bail.

3] According to the applicant, he is innocent nothing has been seized from him. The investigation is already over and, therefore, he may be released on bail.

4] Application is opposed by the prosecution by filing a say at Exhibit-6. It is contended that the applicant was found in possession of scented tobacco, which is injurious to health, and that if he is released on bail, he is likely to commit offences of a similar nature.

5] I have perused the application and the say and heard the learned counsel for the respective parties. From a bare perusal of the FIR, it appears that the applicant was found in possession of the contraband scented tobacco, which was seized from his pan stall. However, there is no material on record to show that the applicant was selling the said material with the knowledge that it was harmful to health or that he had any intention to cause injury to any person. Similarly, there is no evidence to show that he tried to administer it to anyone forcefully. Secondly, it is also necessary to note that, apart from the provisions of the Bharatiya Nyaya Sanhita, the Investigating Officer has also invoked the provisions of the Food Safety and Standards Act, 2006 against the applicant. In this regard, the

observations made by the ***Hon'ble Bombay High Court Nagpur Bench Criminal Application (Apl.) No. 1776 Of 2025 in Mohammad Bilal Moammad Yakub Versus State of Maharashtra*** are relevant, wherein it has been held that:

*'13] It is the case where the names of these applicants are disclosed by the co-accused. There is no material on record except CDR report, which is not sufficient to conclude that any material has been seized from the present applicants in the matter. Therefore, it is clear that, only on the basis of the statement of the co-accused, their names have been added in charge-sheet. After going through the judgments filed by the applicants in support of their argument that, the offences under sections 272, 273, 328 of the IPC cannot be invoked when same subject matter is covered by the special law. Section 272, 273, 328 are invoked along with FSSA. Section 272 IPC requires adulteration along with intention to sell. Section 273 IPC requires sale with knowledge of harmful nature. Section 59 FSSA is broader and applies even without intention. Therefore, the section of IPC are not applicable in this case as the applicants were not found in possession of the contraband and it is not evident from the charge-sheet that there is any material to show that they were selling the said contraband with knowledge of harmful nature. Accused Nos. 1 and 2 were in possession of the contraband and were taken in custody. Prosecution must follow FSSA procedure through the competent authority, and liability requires conscious possession whereas in the case there is no recovery or possession and only indirect evidence, making the prosecution weak and liable for quashing.*

6] Be that as it may, the investigation is complete and the custodial detention of the applicant is no longer required. The offences alleged against the applicant are not punishable with death or imprisonment for life. There are no criminal antecedents against the applicant. Therefore, I am of the view that the applicant is entitled to be released on bail. Hence, the following order:

**ORDER**

- I] The application (Exh.-1) is allowed.
- II] The applicant, **Amir Khan Hamid Khan Pathan**, shall be released on bail upon executing a personal bond of Rs. 25,000/- (Rupees Twenty-Five Thousand Only) with one solvent surety in the like amount, in connection with Crime No. 1050/2026 registered at Wardha (City) Police Station for the offences punishable under Sections 3(1)(zz)(iv), 26(1), 26(2)(iv), 27(3)(e), 30(2)(a), and 59 of the Food Safety and Standards Act, 2006, and Sections 123, 223, 274, and 275 of the Bharatiya Nyaya Sanhita, 2023.
- III] The applicant is further directed to cooperate with the Investigating Officer, not to tamper with the evidence, and not to influence witnesses in any manner.
- IV] The applicant shall not leave the jurisdiction of Wardha (City) Police Station without prior permission of the Trial Court.
- V] Case diary return back to the Investigation Officer.
- VI] Bail shall be furnished before the Trial Court.

Date : 24/07/2026

(S.A.S.M. Ali)  
Additional Session Judge,  
Wardha.

**CERTIFICATE**

I affirm that the contents of this P.D.F. file are same word to word as per the original order.

Prashant U. Kawde  
Stenographer