

MHTH120165752026



**Order below Exh. 01 In Other Misc.Cri.Appln. No.892/2026
(Suraj Sachidanand Pandey Vs. State Nerul Police Station)**

1. This application filed by the applicant under Section 503 of the Bhartiya for release of the seized shop by Respondent Nos. 1 and 2. Respondent Nos. 1 and 2 submitted their say.
2. Ld. Advocate for the applicant submitted that, on 19/06/2026, at about 2:45 p.m., Respondent Nos. 1 and 2 came there. They took search and seized banned Gutkha and Pan Masala. As well as, they seized the shop. The applicant is the only earning member of his family. If his shop is continuously seized, then his family would be adversely affected. Therefore, he prays for release of the seized shop.
3. Ld. APP submitted that the applicant is accused in Crime No. 381 of 2026 for commission of offences punishable under Section 123, 223, 274, 275 of the BNS and Section 26(2)(i), 26(2)(iv), 27(3)(d), 27(3)(e), 30(2)(a), 3(1)(zz)(iv), 59(II) of the Food Safety and Standards Act, 2006. The shop in question was seized by Food Safety Officer Mr. Abhinandan Mahaveer Randive. The shop was used for sale of prohibited items of Gutkha and Pan Masala of ₹3,275/-. If the shop was reopened, then the accused can use it for illegal purpose. Hence, he prays for rejection of the application.

Legality of sizer of shop.

4. Perused the record. It appears that, prima facie, prohibited items, Gutkha and Pan Masala, were seized by the informant, Mr. Randive. As per the say filed by his department (Respondent No. 2), under Rule 2.1.3(4) of the Food Safety and Standards Rules, 2011, framed under the Food Safety and Standards Act, 2006, the Food Safety Officer has the power to seize the premises after taking samples of the prohibited products.

Say of Respondent no. 2

उल्लंघन करणा-या कोणता अन्नपदार्थ जप्त करण्याचे अधिकार आहेत. नियम २.१.३(४)(आय) नुसार The food safety officer may seize the adulterant or food which is unsafe or substandard or misbranded or containing extraneous matter, may seal the premises for investigation after taking a sample of such adulterant or food for analysis" या तरतुदीनुसार जप्त करणे व कायदेशीर कारवाई घेणे कायदानुसार अत्यंत आवश्यक आहे.

5. The Food Safety and Standards Act, 2006, is a special legislation and prevails over the general legislation, i.e., the Bharatiya Nagarik Suraksha Sanhita. Therefore, I do not find any apparent illegality in the procedure adopted by the informant, Mr. Randive.

Conduct of Applicant.

6. Here, on close perusal of the record, it appears that the applicant submitted the **Shop Act Licence** and **Udyam Registration Certificate** to show that his business and shop are legal. The dates and events are as follows:

	Date	Event
[A]	19/06/2026.	Shop in question was seized
[B]	22/06/2026	Applicant give intimation of

		his business to authority for obtaining Shop Act licence
[C]	26/06/2026	Applicant got Udyam Certificate

7. Here, it is pertinent to note that, on the date of seizure of the shop, the applicant did not possess a valid permission or licence to run the business in the premises. He obtained the necessary licence after the seizure of the shop. Therefore, he absolutely indulged in unauthorised business. But with the intention to mislead the Court, he produced the above-mentioned document. It is a very unfortunate and shameful event. Hence, the conduct of the applicant is highly suspicious.

Whether this Court has jurisdiction?

8. Informant is Food Safety Officer, he seized the shop as per provision of the Food Safety and Standards Act, 2006. It is special legislation. As per Section 5 of the BNSS.

Nothing contained in this Sanhita shall, in the absence of a specific provision to the contrary, affect any special or local law for the time being in force, or any special jurisdiction or power conferred, or any special form of procedure prescribed, by any other law for the time being in force.

9. As per Section 68 (1) of the Food Safety and Standards Act, 2006,

(1) For the purposes of adjudication under this Chapter, an officer not below the rank of Additional District Magistrate of the district where the alleged offence is committed, shall be notified by the State Government as the Adjudicating Officer for adjudication in the manner as may be prescribed by the Central Government.

10. Section 70 provides an appellate authority. Therefore, the Food Safety and Standards Act, 2006, is a complete legislation in itself. It has its own tribunal. In that situation, the BNSS did not come into play to provide a remedy and forum to the applicant. The applicant must file his application before the Adjudicating Officer under Section 68 of the Act. But the applicant wrongly filed it before this Court under Section 503 of the BNSS.
11. This Court has no jurisdiction to interfere with the power of the Adjudicating Officer granted to him by the special Act and release shops seized by the Food Safety Officer under the provisions of the Food Safety and Standards Act, 2006.
12. Considering the above-mentioned facts and circumstances, I proceed to pass the following order.

ORDER

Application is rejected.

(Sangram Subhash Jadhav)

Judicial Magistrate First Class,
Belapur.

Dt.17.07.2026