



## COMMISSIONER

### FOOD AND DRUG ADMINISTRATION, MAHARASHTRA STATE

Survey No. 341, Bandra Kurla Complex, Bandra (East), Mumbai - 400 051

No. FDA / Vigilance / MCOCA / Prohibited Food/ 53 - 2026

Date: 12.06.2026

### ORDER

[ Food Safety and Standards Act, 2006 - ss. 3, 26, 27, 30, 38, 41, 42, 59, 63, 64 & 89 Maharashtra Control of Organised Crime Act, 1999 - ss. 2(1)(d), 2(1)(e), 2(1)(f), 3, 4, 18, 21 & 23 read with the Code of Criminal Procedure, 1973 / Bharatiya Nagarik Suraksha Sanhita, 2023 ]

|         |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                     |
|---------|-----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| SUBJECT | Invocation of the Maharashtra Control of Organised Crime Act, 1999 (MCOCA), read with the Code of Criminal Procedure, 1973 / Bharatiya Nagarik Suraksha Sanhita, 2023, in enforcement actions against manufacturers, financiers, suppliers, transporters, godown operators, wholesalers, sub-dealers and retailers engaged in the manufacture, storage, transportation, distribution and sale of Prohibited Food Products in violation of orders issued under Section 30(2)(a) of the Food Safety and Standards Act, 2006 - Directions to Joint Commissioners (Food), Assistant Commissioners (Food), Designated Officers and Food Safety Officers. |
|---------|-----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|

**WHEREAS**, Article 47 of the Constitution of India casts upon the State a primary duty to improve public health and, in particular, to bring about prohibition of the consumption of substances injurious to health - a constitutional mandate that obliges the State to deploy every lawful instrument, including the rigour of the criminal law, against those who profit by endangering public health;

**AND WHEREAS**, the Food Safety and Standards Act, 2006 ("the FSS Act") regulates the manufacture, storage, distribution, sale and import of food; Section 30 vests in the Commissioner of Food Safety the responsibility for efficient enforcement of the Act throughout the State, Sections 26 and 27 fix responsibility and liability on manufacturers, packers, wholesalers, distributors and sellers, and Section 30(2)(a) empowers the Commissioner, in the interest of public health, to prohibit the manufacture, storage, distribution or sale of any article of food;

**AND WHEREAS**, in exercise of powers under Section 30(2)(a), the Commissioner of Food Safety has issued and kept in force orders prohibiting the manufacture, storage, distribution, transportation and sale of Gutkha, Pan Masala containing Tobacco or Nicotine and allied tobacco-laced products throughout Maharashtra ("Prohibited Food Products"), such products being recognised as grave public health hazards by the Central Government, the FSSAI and the World Health Organization;

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**AND WHEREAS**, despite the prohibition, enforcement data of the FDA, Police and allied agencies disclose repeated, large-scale and systematically organised illegal trade in Prohibited Food Products across multiple districts, and disclose that **the same persons, firms, networks and syndicates** are repeatedly found in such trade despite prior seizures, FIRs, charge-sheets, prosecutions and convictions - prima facie evidence of habitual, organised and continuing criminal conduct directed at subverting the prohibition regime for unlawful pecuniary gain through coordinated roles of manufacturers, financiers, inter-State and intra-State suppliers, transporters, clandestine godown operators, wholesale distributors and retailers, employing concealment, false documentation, benami transactions and corruption;

**AND WHEREAS**, the FSS Act supplies both the penal and the procedural foundation for such enforcement: **Section 59** makes manufacture, storage, distribution or sale of unsafe food punishable with imprisonment extending up to six years (and beyond, where grievous hurt or death results); **Section 64** punish enhance punishment for subsequent offences; **Sections 38 and 41** empower the Food Safety Officer to search and seize and **expressly apply the provisions of the Code of Criminal Procedure, 1973 (now the Bharatiya Nagarik Suraksha Sanhita, 2023)** to search, seizure, investigation, prosecution and the procedure thereof; **Section 42** prescribes the procedure for launching prosecution; and **Section 89** gives the FSS Act overriding effect. These offences being cognizable and punishable with imprisonment of three years or more, the essential precondition for invocation of MCOCA is satisfied;

**AND WHEREAS**, **Section 2(1)(d) of MCOCA** defines "Continuing Unlawful Activity" means activity prohibited by law..... as a cognizable offence punishable with imprisonment of three years or more, undertaken by or on behalf of an organised crime syndicate, in respect of which more than one charge-sheet has been filed before a competent Court within the preceding ten years and cognizance taken; **Section 2(1)(e)** defines "Organised Crime" as such activity by use of violence, intimidation, coercion or other unlawful means to gain pecuniary benefit or undue economic advantage; and **Section 2(1)(f)** defines "Organised Crime Syndicate" as a group of two or more persons engaging, singly or collectively, in organised crime - each of which definitions squarely answers the networks identified in the illegal trade in Prohibited Food Products;

**AND WHEREAS**, **Section 3 of MCOCA** prescribes rigorous imprisonment of not less than five years, extendable to life, with fine of not less than rupees five lakhs, for committing, attempting, abetting or knowingly facilitating organised crime, and **Section 4** provides for attachment and forfeiture of property derived from organised crime; **Section 18** renders certain confessions recorded by a police officer admissible; **Section 21** modifies the application of the Code of Criminal Procedure, including the stringent twin conditions for bail under **Section 21(4)**; and **Section 23** requires prior approval of a police officer not below the rank of Deputy Inspector General of Police for recording information about an offence of organised crime, and previous sanction of an officer not below the rank of Additional Director General of Police for taking cognizance - these provisions affording a deterrent and a procedure far stronger than the FSS Act alone, and their invocation being necessary and proportionate to the scale, organisation and deliberateness of the enterprise;

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**AND WHEREAS**, the combined deployment of FSS Act confiscation (Sections 38 and 41) and MCOCA attachment and forfeiture of proceeds of crime (Sections 3 and 4), operated through the search, seizure, investigation, custody-of-property and trial procedure of the Code of Criminal Procedure, 1973 / Bharatiya Nagarik Suraksha Sanhita, 2023 as incorporated by Section 41 of the FSS Act and as modified by MCOCA, creates a comprehensive framework depriving organised networks of both their contraband and their ill-gotten assets;

**AND WHEREAS**, it is accordingly established, on constitutional mandate, statutory authority and documented enforcement evidence, that the illegal trade in Prohibited Food Products - wherever carried on by persons against whom more than one charge-sheet has been filed and cognizance taken within the preceding ten years and who act as part of an organised network - constitutes "Continuing Unlawful Activity" and "Organised Crime" by an "Organised Crime Syndicate" within Sections 2(1)(d), 2(1)(e) and 2(1)(f) of MCOCA, and that prosecution under MCOCA is legally tenable, constitutionally mandated and urgently necessary in the public interest;

**NOW, THEREFORE**, in exercise of the powers conferred by Section 30 of the Food Safety and Standards Act, 2006, and in discharge of the constitutional duty under Article 47 of the Constitution of India, I, **Tukaram Mundhe, I.A.S., Food Safety Commissioner, Food and Drug Administration, Maharashtra State**, hereby direct all Joint Commissioners (Food), Assistant Commissioners (Food), Designated Officers (DOs) and Food Safety Officers (FSOs) throughout Maharashtra as follows:

- 1. MCOCA TO BE INVOKED AT THE FIR / COMPLAINT STAGE:** On every enforcement action involving Prohibited Food Products, DO and FSO shall assess MCOCA eligibility (Directions 4 and 5) and, where satisfied, shall ensure that the case is registered invoking Sections 2(1)(d), 2(1)(e), 2(1)(f) and 3 of MCOCA alongside the applicable provisions of the FSS Act and the prohibition orders, through and in coordination with the Police and subject in every case to the prior approval and previous sanction required under Section 23 of MCOCA (Direction 2 below). Filing in an eligible case without invoking MCOCA shall be treated as dereliction of duty.
- 2. PRIOR APPROVAL AND PREVIOUS SANCTION UNDER SECTION 23 OF MCOCA - MANDATORY CONDITIONS PRECEDENT:** No prosecution under MCOCA shall be initiated or sustained unless the conditions precedent under Section 23 of MCOCA are strictly satisfied. Accordingly -
  - (i) Under Section 23(1)(a) of MCOCA, no information about the commission of an offence of organised crime shall be recorded by a police officer without the prior approval of an officer not below the rank of Deputy Inspector General of Police; and
  - (ii) Under Section 23(2) of MCOCA, no Special Court shall take cognizance of any offence under the Act without the previous sanction of an officer not below the rank of Additional Director General of Police.

On every case found eligible for MCOCA, the Designated Officer and Food Safety Officer shall, through the Superintendent / Commissioner of Police, cause the prior approval of the competent authority to be obtained before any information is recorded, and shall ensure that the previous sanction of the competent authority is obtained in writing and placed on



record before cognizance is sought - no charge-sheet invoking MCOCA being forwarded for cognizance without such sanction. Since the absence of valid prior approval or sanction renders the entire MCOCA prosecution liable to be quashed, compliance with this Direction is mandatory, and the order of approval and the order of sanction shall be specifically verified and documented by the Designated Officer in the prosecution file.

**3. PERSONS AND ENTITIES AGAINST WHOM MCOCA SHALL BE INVOKED:**

MCOCA shall be invoked against all persons satisfying Direction 4, without restriction as to their role, including without limitation:

- (i) Manufacturers and producers of Prohibited Food Products;
- (ii) Financiers funding their manufacture, procurement or distribution;
- (iii) Inter-State and intra-State suppliers and commission agents;
- (iv) Transporters and vehicle operators, including agents who book or arrange transport;
- (v) Godown operators, warehouse owners and storage managers who knowingly store such products;
- (vi) Wholesale dealers and distributors;
- (vii) Sub-dealers and semi-wholesale agents;
- (viii) Retail sellers forming part of an identified organised network; and
- (ix) Any other person who knowingly facilitates, abets, conceals or assists any of the above.

**4. MANDATORY THRESHOLD FOR INVOCATION:** MCOCA shall be mandatorily invoked where the following are cumulatively satisfied:

- (i) the accused, or any member of the network, has been named in more than one charge-sheet before a competent Court for offences under the FSS Act or the prohibition orders within the preceding ten years, and cognizance has been taken;
- (ii) The offence is cognizable and punishable with imprisonment of three years or more;
- (iii) Two or more persons act in coordination, whether as manufacturers, financiers, transporters, distributors or sellers; and
- (iv) The activity is carried on with the objective of pecuniary gain.

**5. AGGRAVATING CIRCUMSTANCES - PRESUMPTION OF ELIGIBILITY:**

Where any one or more of the following is present, there shall be a strong presumption in favour of invoking MCOCA, and no officer shall refrain without recording specific written reasons approved by the Joint Commissioner (Food):

- (i) inter-State supply chain or manufacturing nexus;
- (ii) Clandestine godowns, fake labels, dummy firms or forged invoices;
- (iii) Simultaneous seizures across multiple districts pointing to a common syndicate;
- (iv) Corruption of enforcement officials or intimidation of informants or witnesses;

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- (v) seizure value exceeding Rs.10 lakhs in a single action or Rs.25 lakhs cumulatively from the same accused or network; and
- (vi) Financial flows indicating systematic profiteering, including hawala or benami channels.
6. **DUTIES OF FOOD SAFETY OFFICERS:** On every action the FSO shall record a written MCOCA eligibility assessment before or simultaneously with registration; exercise the powers of search and seizure under Sections 38 and 41 of the FSS Act following the procedure of the Code of Criminal Procedure, 1973 / Bharatiya Nagarik Suraksha Sanhita, 2023; ensure the appropriate MCOCA provisions are incorporated; immediately intimate the Designated Officer and Joint Commissioner (Food); and compile the complete dossier - seizure panchnama, all prior FIRs and charge-sheets, cognizance orders, full network details, supply-chain map and estimated illegal proceeds.
7. **DUTIES OF DESIGNATED OFFICERS / ASSISTANT COMMISSIONERS (FOOD):** The DO shall supervise FSO compliance with Direction 6; ensure MCOCA is invoked wherever criteria are met; coordinate with the Superintendent / Commissioner of Police for joint investigation and registration under MCOCA (including the Section 23 approval and sanction chain); and forward a District MCOCA Prosecution Report to the Joint Commissioner (Food) within fifteen days of each qualifying action. Failure to invoke MCOCA in an eligible case without written reasons approved by the Joint Commissioner (Food) shall be treated as dereliction of duty.
8. **DUTIES OF JOINT COMMISSIONERS (FOOD):** The Joint Commissioner (Food) shall enforce these directions within jurisdiction; review each District Report within fifteen days of receipt; forward consolidated Regional MCOCA Prosecution Reports to the Commissioner monthly; personally coordinate with senior Police officers at the range / divisional level; and, where a case merits ATS / STF investigation, place it before the Commissioner for referral to the Director General of Police.
9. **NETWORK-WIDE PROSECUTION - NO PARTIAL ACTION:** Where a syndicate is identified, prosecution under MCOCA shall be initiated against all identifiable members simultaneously, across every tier from manufacturer to retailer, to the extent material evidence is available. Selective prosecution of only the lowest tier while organisers, financiers and major suppliers escape shall not be countenanced; the DO shall document the complete network structure.
10. **CONFISCATION, ATTACHMENT AND FORFEITURE - TWIN-TRACK ACTION:** Every action shall simultaneously activate two independent property tracks, pursued concurrently and without delay:
- (A) **TRACK I - ATTACHMENT AND FORFEITURE UNDER MCOCA:** simultaneously with registration, the DO and FSO shall place on record a Property and Proceeds Inventory of all assets and proceeds of crime - immovable property, vehicles, premises, units, godowns, bank accounts, cash, jewellery and other assets - acquired directly or indirectly from the illegal trade, and forward it to the competent authority for proceedings under Sections 3 and 4 of MCOCA. Assets

held through family members, associates or benami entities shall be specifically documented.

**(B) TRACK II - VEHICLES AND CONVEYANCES - NO PREMATURE RELEASE:** intercepted vehicles are instruments of organised crime and shall not be released on supratnama or interim custody without the written approval of the Joint Commissioner (Food); release applications shall be resisted before the Adjudicating Officer and the competent Court, regard being had to custody-of-property under the Code of Criminal Procedure (Sections 451 to 457) / Bharatiya Nagarik Suraksha Sanhita (Sections 497 to 503) and to the proceedings under Tracks I and II.

- 11. PROSECUTION REGISTER:** All Joint Commissioners (Food), DOs and FSOs shall maintain and continuously update a District-wise MCOCA Prosecution Register of all actions, FIRs invoking MCOCA, charge-sheets, court orders and disposals, to serve as an operational prosecution record made available to Police and Courts as required. A consolidated State-level register shall be maintained at Headquarters under the Joint Commissioner (Vigilance).
- 12. BAIL OPPOSITION:** In every MCOCA case the DO and FSO shall place adequate material before the competent Court to resist bail, having regard to the stringent twin conditions under **Section 21(4) of MCOCA** read with Sections 437 and 439 of the Code of Criminal Procedure / Sections 480 and 483 of the Bharatiya Nagarik Suraksha Sanhita; the case shall be conducted with the Public Prosecutor designated under MCOCA, the Commissioner coordinating with the State Government for senior counsel where necessary.
- 13. PROCEDURAL COMPLIANCE WITH THE CRIMINAL PROCEDURE CODE:** All search, seizure, arrest, investigation, recording of statements, production of property, remand, filing of the police report / charge-sheet and trial shall be carried out in accordance with the Code of Criminal Procedure, 1973 (now the Bharatiya Nagarik Suraksha Sanhita, 2023) as expressly incorporated by Section 41 of the FSS Act, read with the special procedure under Sections 18, 21 and 23 of MCOCA. In particular, FIR / information (Section 154 CrPC / Section 173 BNSS), investigation (Section 156 CrPC / Section 175 BNSS), seizure and custody of property (Sections 102, 451-457 CrPC / Sections 106, 497-503 BNSS), remand (Section 167 CrPC / Section 187 BNSS, as modified by MCOCA) and the police report (Section 173 CrPC / Section 193 BNSS) shall be strictly observed so that no prosecution fails for procedural infirmity.

**AND IT IS FURTHER DIRECTED THAT,** this Order shall be a **Standing Order** applicable to all current and future enforcement actions involving Prohibited Food Products throughout Maharashtra, shall come into force with immediate effect, and shall continue until expressly superseded by the Commissioner, FDA.

**AND IT IS FURTHER DIRECTED THAT,** failure to invoke MCOCA in an eligible case by any FSO, DO, Assistant Commissioner (Food) or Joint Commissioner (Food), without prior written approval of the Joint Commissioner (Food) recording specific reasons, shall be treated as **dereliction of duty and wilful non-compliance**, rendering the officer liable to disciplinary proceedings under the applicable service rules.

**AND IT IS FURTHER DIRECTED THAT,** this Order is issued to make Maharashtra the first State in India to deploy the full force of organised-crime legislation against networks engaged in the illegal trade in Prohibited Food Products, and to send an unambiguous message that such activity will henceforth be prosecuted not merely as a food-safety violation but as **organised crime against public health.**

By the Order and in the name of the Commissioner, Food and Drug Administration, Maharashtra State.

Digitally signed by  
TUKARAM H MUNDHE  
Date: 12-06-2026  
13:31:13  
(Tukaram Mundhe I.A.S.)  
Food Safety Commissioner  
Food and Drug Administration,  
Maharashtra State, Mumbai.

**Copy forwarded for information:**

1. Additional Chief Secretary, Home, Government of Maharashtra
2. Additional Chief Secretary, Food and Drug Administration, Government of Maharashtra.

**Copy forwarded for necessary action:**

1. The Director General of Police, Maharashtra State, Mumbai.
2. All the Commissioners of Police / Superintendent of Police.
3. Joint Commissioner (Vigilance), FDA, Maharashtra - for monitoring, coordination and monthly reporting to the Commissioner.
4. Joint Commissioners (Food), (Head Quarter), FDA Maharashtra - for monitoring, coordination and monthly reporting to the Commissioner.
5. All Regional Joint Commissioners (Food), FDA Maharashtra - for compliance and immediate implementation.
6. All Assistant Commissioners (Food) / Designated Officers, FDA Maharashtra - for compliance and immediate implementation.
7. All Food Safety Officers, FDA Maharashtra - for compliance and immediate implementation
8. Office file.

**SCHEDULE**  
**MCOCA ELIGIBILITY - QUICK REFERENCE FOR FSOs AND DOs**  
*(Pursuant to Directions 2, 4, 5, 10 and 13 of this Order)*

|                    | Criterion                                                                      | Source                      | Application to Prohibited Food Products                                                   |
|--------------------|--------------------------------------------------------------------------------|-----------------------------|-------------------------------------------------------------------------------------------|
| <b>MANDATORY</b>   | Two or more charge-sheets within the preceding 10 years, with cognizance taken | MCOCA s. 2(1)(d)            | FSO to verify via Police Station records; court orders to be annexed.                     |
| <b>MANDATORY</b>   | Cognizable offence carrying 3 years or more                                    | MCOCA s. 2(1)(d); FSS s. 59 | FSS s. 59 - up to 6 years; satisfied in all such cases.                                   |
| <b>MANDATORY</b>   | Two or more persons acting in concert                                          | MCOCA s. 2(1)(f)            | Manufacturer + transporter, or distributor + retailer, qualifies.                         |
| <b>MANDATORY</b>   | Activity motivated by pecuniary gain                                           | MCOCA s. 2(1)(e)            | Commercial trade is inherently profit-driven; always satisfied.                           |
| <b>PROCEDURE</b>   | Prior approval (DIG) to record; sanction (Addl. DGP) for cognizance            | MCOCA s. 23                 | DIG approval before FIR; Addl. DGP sanction filed before cognizance; both verified by DO. |
| <b>PROCEDURE</b>   | Search, seizure, investigation, remand, charge-sheet per CrPC / BNSS           | FSS s. 41; CrPC / BNSS      | Strict compliance so no prosecution fails for infirmity.                                  |
| <b>FSS ACTION</b>  | Confiscation of goods, vehicles, machinery and material                        | FSS ss. 38                  | Initiated with FIR; vehicles not released pending proceedings.                            |
| <b>AGGRAVATING</b> | Inter-State / inter-district supply chain                                      | MCOCA s. 2(1)(e)/(f)        | Add ATS / STF referral to local MCOCA FIR.                                                |
| <b>AGGRAVATING</b> | Fake invoices / dummy firms / benami assets                                    | MCOCA s. 2(1)(e)            | Strengthens the charge; document thoroughly.                                              |
| <b>AGGRAVATING</b> | Corruption / intimidation of witnesses                                         | MCOCA s. 2(1)(e)            | Use of unlawful means - core element.                                                     |
| <b>AGGRAVATING</b> | Seizure > Rs. 10 L (single) or > Rs. 25 L (cumulative)                         | MCOCA ss. 3 & 4             | Attachment / forfeiture to be initiated simultaneously.                                   |

**Note:** Where all four MANDATORY criteria are met, invocation of MCOCA is **not discretionary but obligatory**. Any FSO or DO not invoking MCOCA in such a case must record specific written reasons and obtain the written approval of the Joint Commissioner (Food) before registration without MCOCA provisions, and registration shall in any event be effected through the Police in compliance with Section 23 of MCOCA.

[ End of Order and Schedule ]

  
**(Tukaram Mundhe I.A.S.)**  
**Food Safety Commissioner**  
**Food and Drug Administration,**  
**Maharashtra State, Mumbai.**