

THE HIGH COURT OF JUDICATURE AT BOMBAY,
BENCH AT AURANGABAD.

CRIMINAL WRIT PETITION NO. 286 OF 2016

Ramrao s/o Yeshwantrao Bhorgir,
Age: 62 years, Occu. Business,
R/o. Hasul, Post. Bolaka, Tq. Kandhar,
District - Nanded.

... **PETITIONER**

VERSUS

The State of Maharashtra,
Through Police Station Officer,
Kandhar Police Station,
Tq. Kandhar, District Nanded.

... **RESPONDENT**

...
Mr. R. R. Suryawanshi, Advocate for Petitioner.
Mrs. P. V. Diggikar, APP for Respondent / State.
...

CORAM : **T. V. NALAWADE &
SMT. VIBHA KANKANWADI, JJ.**

DATE : 26th October, 2018.

JUDGMENT: (Per T. V. Nalawade, J.)

. The proceeding is filed for relief of quashing of FIR No.66
of 2015, registered with Kandhar Police Station, District Nanded, for
the offences punishable under Sections 3 and 7 of the Essential

Commodities Act, 1955 and also charge-sheet No.30 of 2016 filed in that crime in the Court of learned Judicial Magistrate First Class, Kandhar on 11th May, 2016.

2 Both the sides are heard.

3 The submissions made and record show that the crime was registered on the basis of report given by one PSI of Kandhar Police Station. This police station had specific information that the owner of fair price shop from village Hasul, present Petitioner was selling kerosene of fair price shop in black market. Naib Tahsildar was contacted by police and *Panch* witnesses were collected. On 22nd October, 2015 at 22:35 hours, police noticed on two motorcycles, four persons and pillion riders were holding plastic cans. Both the motorcycles were intercepted. The four persons, who were found on the motorcycles supplied information that they had collected the kerosene from the shop of present Petitioner. It was kerosene meant for PDS system. Total quantity of 55 liters of kerosene from the two cans was recovered. Charge-sheet was then filed against the present Petitioner.

4 The submissions made and record show that there will be evidence of police officers, who had participated in the action, but that will be against the four persons who were found on the two motorcycles. It can be said that after interception of the two motorcycles, four persons were in the custody of police and they had supplied some information to the police. Thus, the persons will not be coming to give evidence against the present Petitioner and there will be the evidence of aforesaid nature only of police officers and *Panch* witnesses. This evidence cannot be used to base conviction against the present Petitioner. This Court holds that nothing can be achieved by directing the Petitioner to face the trial for the aforesaid offences. In the result, the following order is passed:

ORDER

- I. The petition is allowed.
- II. Relief is granted in terms of prayer clause (C).
 Relief of quashing of case itself is also granted.
- III. Rule is made absolute in those terms.

[SMT. VIBHA KANKANWADI, J.]

[T. V. NALAWADE, J.]