

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

939 CRIMINAL APPLICATION NO.773 OF 2022

SAYYED JAKER S/O AHMED HUSSAIN

VERSUS

THE STATE OF MAHARASHTRA

...

Mr. A.S. Gandhi, Advocate for applicant

Mr. S.J. Salgare, APP for the sole respondent

...

CORAM : SMT. VIBHA KANKANWADI AND
ABHAY S. WAGHWASE, JJ.

DATE : 09th DECEMBER, 2022

ORDER :

1 The applicant has been arrayed as an accused in First Information Report vide Crime No.230/2021 dated 27.07.2021 registered with Ashti Police Station, Tq. Ashti, Dist. Beed, for the offence punishable under Section 3 and 7 of the Essential Commodities Act, 1955. He has prayed for the quashment of the First Information Report as well as by way of amendment the charge sheet itself, which has been now filed before learned Judicial Magistrate First Class, Ashti.

2 Heard learned Advocate Mr. A.S. Gandhi for the applicant and

learned APP Mr. S.J. Salgare for the respondent.

3 The First Information Report has been lodged by Namdeo Yadavrao Dhanwade, PSI attached to Ashti Police Station. He states that he had intercepted a vehicle i.e. Truck bearing registration No.MH 16-AE-9616. One Shaikh Jainoddin Shaikh Azimoddin Shaikh was the driver. The inspection of the truck showed that it was carrying paddy/rice and wheat. Tahsildar was called and it is stated that 77 gunny bags of rice = 46.20 quintal and 11 gunny bags of wheat = 06.60 quintal was seized.

4 As the investigation progressed, it is stated that the name of the present applicant was revealed as Jakir Khatib, however, as per the applicant, his correct name is Sayyad Jaker Ahmed Hussain. The investigation is complete and now charge sheet is also filed. In the charge sheet there is a document which is signed by Tahsildar, Ashti and it is in respect of the communication regarding the truck. The said communication by Tahsildar, Ashti dated 20.08.2021 shows that after the articles were seized, opinion was sought from the Tahsildar as to whether the said gunny bags/articles were from the public distribution system. The report clearly states that it is in negative. That means, the competent authority has concluded that the seized muddemal is not from the public distribution system. There is no other

document in charge sheet showing that those gunny bags were being transported in violation of any prohibitory order. No such prohibitory order/ order under Section 3 of the Essential Commodities Act has been annexed. Under such circumstance, in view of the specific conclusion by the competent authority that the muddemal is not from the public distribution system, it would be a futile exercise to ask the applicant to face the trial for the offence under Section 3 punishable under Section 7 of the Essential Commodities Act. Application, therefore, stands allowed. Hence, following order.

ORDER

1 Criminal Application stands allowed.

2 First Information Report vide Crime No.230/2021 dated 27.07.2021 registered with Ashti Police Station, Tq. Ashti, Dist. Beed, for the offence punishable under Section 3 and 7 of the Essential Commodities Act, 1955 and the charge sheet No.23/2022 i.e. proceedings bearing Regular Criminal Case No.140/2022 pending before Judicial Magistrate First Class, Ashti stand quashed and set aside as against the present applicant.

(Abhay S. Waghwase, J.)

(Smt. Vibha Kankanwadi, J.)