

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD**

CRIMINAL WRIT PETITION NO. 423 OF 2020

Najid Majid Kazi

..PETITIONER

VERSUS

State of Maharashtra and Another

..RESPONDENTS

....

Mr. S.S. Thombre, Advocate for petitioner
Mrs. G.L. Deshpande, A.P.P. for respondent no.1

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**CORAM : R.G. AVACHAT, J.
DATED : 18th FEBRUARY, 2022**

PER COURT :

1. The challenge in this petition is to an order dated 14th January, 2020 passed by learned Judicial Magistrate First Class, Kallam committing the case, R.C.C. No. 61 of 2016 to the Court of Session, Osmanabad.

2. Heard.

3. According to learned counsel for the petitioner, Section 36-AB of the Drugs and Cosmetics Act, 1940 ('the Act') speaks of constitution of Special Courts for trial of certain offences enumerated therein. According to him, such offences pertain to adulterated and spurious drugs. In the case in hand, the petitioner has not been alleged to have committed such offence/s,

and therefore, the order of committal of the case to the Court of Session is unsustainable. He, therefore, urged for allowing the writ petition.

4. Learned A.P.P. would, on the other hand, submit that it is a case instituted otherwise on police report. Section 18(c) of the Act has been invoked. It has been specifically averred in the clause (11) of the complaint that the petitioner/accused did not have a licence to store and sell the drugs and cosmetics at a place of which the inspection was made. Under Section 27 of the Act, breach of Section 18(c) is punishable with imprisonment for a term which shall not be less than three years but may extend to five years and with fine as well. Section 32(2) of the Act speaks that no Court inferior to that of a Court of Session shall try an offence punishable under the Chapter IV of the Act, except otherwise provided.

5. As such, learned Magistrate has rightly committed the case to the Court of Session for trial in accordance with law. Thus, there is no merit in this petition. Same, therefore, fails. Writ petition thus, dismissed.

(R.G. AVACHAT, J.)

SSD