



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

CRIMINAL APPLICATION NO.272 OF 2025

Arjun Nagnathrao Mehatre

.. Applicant

Versus

1. The State Of Maharashtra
Through PI, Manwath Police Station,
Tq. Manwat, Dist. Parbhani.

2. Babasaheb Rambhau Bhabat

.. Respondents

...
Mr. A. N. Barhate Patil, Advocate for the applicant.
Mr. A. D. Wange, APP for respondent No.1/State.

...

**CORAM : SMT. VIBHA KANKANWADI &
SANJAY A. DESHMUKH, JJ.**

DATE : 30 JANUARY 2025

ORDER :

. Present application has been filed for quashing the proceedings i.e. Charge-Sheet No.100 of 2023 dated 22.04.2023, pending before the learned Judicial Magistrate First Class, Manwath arising out of FIR vide Crime No.78 of 2023 dated 05.03.2023 registered with Manwath Police Station, District Parbhani for the offences punishable under Section 65(e) of the Maharashtra Prohibition Act.

2. Heard learned Advocate for the applicant and learned APP for both the respondents. Respondent No.2 has filed the FIR in his official capacity. Respondent No.2 is serving as Police Constable with Manwath Police Station, District Parbhani and in the FIR it is stated that around 2.00 p.m. on 05.03.2023, he and his superior as well as colleagues were patrolling between Ratnapur to Manwat city, at that time, they received secret information that one person is transporting liquor on White Honda Activa. Therefore, arrangement was made for two panchas. One person coming on Activa Scooter was intercepted, who was carrying something in his two bags, one of white colour and another of green colour. After the bags were searched, they found box containing 45 glass bottles of 180 ML each, 10 bottles of Beer, 8 bottles of liquor of Blenders Pride company. Upon inquiry, the said person told his name as Uday Suryakiran Jaiswal and informed that he had taken the said material/liquor from Arjun Bar belonging to Appa Mehatre.

3. It appears that after investigation, notice under Section 41C of the Code of Criminal Procedure has been issued to the present applicant and charge-sheet has been filed.

4. From the contents of the FIR as narrated above and the statements of witnesses under Section 161 of the Code of Criminal Procedure, which are mainly the police witnesses, all were disclosing that the name of the present applicant was disclosed by the co-accused. It appears that the investigating officer has not made any independent investigation with the applicant and, therefore, only on the basis of statement of the co-accused, it appears that the applicant has been arrayed as accused in the matter. The said statement of the co-accused is inadmissible as against the present applicant and, therefore, it would be a futile exercise to ask the applicant to face the trial. This is a fit case where we should exercise our inherent powers under Section 482 of the Code of Criminal Procedure. Hence, the following order :-

ORDER

- I) Criminal Application stands allowed.
- II) The proceedings i.e. Charge-Sheet No.100 of 2023 dated 22.04.2023, pending before the learned Judicial Magistrate First Class, Manwath arising out of FIR vide Crime No.78 of 2023 dated 05.03.2023 registered with

Manwath Police Station, District Parbhani for the offences punishable under Section 65(e) of the Maharashtra Prohibition Act, stands quashed and set aside as against the present applicant.

[SANJAY A. DESHMUKH]
JUDGE

[SMT. VIBHA KANKANWADI]
JUDGE

scm