



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

**11 CRIMINAL APPLICATION NO.275 OF 2025**

RIYAZ ISAQ SHAIKH  
VERSUS  
THE STATE OF MAHARASHTRA

...  
Mr. S. K. Shaikh, Advocate for Applicant.  
Mr. A. D. Wange, APP for Respondent/State.  
...

**CORAM : SMT. VIBHA KANKANWADI &  
SANJAY A. DESHMUKH, JJ.**  
**DATE : 30 JANUARY 2025**

**ORDER :**

. Present application has been filed for getting the FIR vide Crime No.556 of 2024 dated 14.10.2024 registered with Udgir Rural Police Station, District Latur for the offences punishable under Sections 123, 274, 275, 223 of Bhartiya Nyaya Sanhita, 2023, quashed and set aside.

2. Heard learned Advocate for the applicant. It has been vehemently submitted on behalf of the applicant that the applicant was not knowing about the registration of the offence, which came to be registered after a delay of 45 days. It is stated that the Police Head Constable has wrongly filed the report as there are two dates on record in respect of commission of offence

and registration of the offence. The applicant has no criminal history and it would be unjust to ask him to face the trial.

3. Learned APP waives notice for the respondent/State and submits that the investigation is at initial stage and, therefore, it need not be quashed and set aside by exercising powers under Section 482 of the Code of Criminal Procedure when it is alleged in the FIR that the raiding party had got the applicant red handed with the banned article *Gutkha*.

4. At the outset, it is to be noted that the FIR has been lodged by Police Head Constable. Certainly, there are two different dates, but it has been stated that on 28.08.2024 a letter was given to Police Inspector which was in fact the report and as per the said report, on that day, when secret information was received, trap was arranged. It is then stated that the applicant came on motorcycle bearing MH-24-BK-7889 around 6.30 p.m. on the road near Shivaji Maharaj Chowk at Dawangaon. They had caught the applicant and took search of his bag, whereupon they found banned article of *Gutkha* contained in 112 packets of Vimal Pan Masala, 9 packets of Gitanjali Pan Masala and 10 packets of Sagar Pan Masala, which are stated to be the prohibited articles. Based on that letter/report dated 28.08.2024, the FIR has been

lodged on 13.10.2024.

5. We are aware of the fact that the decisions of this Court in ***Anand Ramdhani Chaurasia and another Vs. State of Maharashtra and others, [2019 DGLS (Bom.) 1020]*** and ***Ganesh Pandurang Jadhao Vs. State of Maharashtra [Criminal Writ Petition No.1027 of 2015 with companion matters decided by this Court on 15.10.2020]*** are stayed by the Hon'ble Supreme Court, however, in ***Vasim S/o Jamil Shaikh vs. State of Maharashtra and another, [Criminal Application No. 4353 of 2016]*** decided by this Court on **29.11.2018**, to which one of the members of this Bench SMT. JUSTICE VIBHA KANKANWADI was party, there is no stay. In the said decision it is held that for banned article *Gutkha*, the offence can lie under Section 123 of Bhartiya Nyaya Sanhita, 2023 (old Section 328 of Indian Penal Code). Under the said circumstance, no case is made out at this stage for exercise of powers under Section 482 of the Code of Criminal Procedure. Hence, application stands dismissed at the threshold.

**[SANJAY A. DESHMUKH ]**  
**JUDGE**

**[ SMT. VIBHA KANKANWADI ]**  
**JUDGE**

scm