



(This order is corrected in view of speaking to the minutes of order dated 01.07.2025)

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

CRIMINAL APPLICATION NO.2813 OF 2024

Ashishsingh Ishwarsingh Chavan,
Age : 32 years, Occu. : Agri.,
R/o. Singa1 Gin Juna Jalna,
Tq. & Dist. Jalna.

.. Applicant

Versus

1. The State of Maharashtra,
Through Police Inspector,
Police investigation officer,
Kadim Police Station, Jalna
Tq. & Dist. Jalna.
2. Rajendra Chhaganrao Wagh,
Age: 35 years, Occu: Sub-Inspector-
Police Local Crime Branch Jalna,
Tq. & Dist. Jalna.

.. Respondents

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Mr. J. R. Nawale, Advocate for the applicant.

Mrs. R. P. Gour, APP for respondent No.1/State.

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

DATE : 16 JUNE 2025

ORDER :

. Present application has been filed initially for quashing the FIR
vide Crime No.04 of 2024 dated 02.01.2024 registered with Kadim Jalna
Police Station, District Jalna and later on, by way of amendment, for

quashing the proceedings in Regular Criminal Case No.374 of 2024, pending before the learned Chief Judicial Magistrate, Jalna for the offences under Section 3 punishable under Section 25 of the Indian Arms Act.

2. Heard learned Advocate Mr. J. R. Nawale for the applicant and learned APP Mrs. R. P. Gour for respondent No.1/State. In order to cut short, it can be said that all of them have made submissions in support of their respective contentions.

3. The FIR has been lodged by Police Sub Inspector Rajendra Wagh of Local Crime Branch, Jalna stating that he had received secret information that one Anil Gorakhnath Jadhav is possessing country made pistol and upon this information, he and his staff went to Anandnagar area where the said person was found in Gurucharan Hospital Chowk. He was intercepted and upon the search of this person, the country made pistol with five cartridges and his Tata Indigo car was seized. When the inquiry was made with him, he told that he had procured the said pistol and the cartridges from his friend Ashish Iswar Chavan i.e. present applicant. Perusal of the entire charge-sheet would show that there are statements of the police persons, who were the part of the raiding staff. It also shows that the panchanama was prepared at the time of seizure. Now, except these documents, there is nothing.

According to the prosecution, both the accused have committed offence under Section 3 punishable under Section 25 of the Indian Arms Act. Section 3 of the Indian Arms act deals with licence for acquisition and possession of firearms and ammunition. Of course, when it comes to country made pistol, there could not have been a licence of any nature. However, before the institution of prosecution; for the purpose of the investigating agency, there is hurdle of Section 39 of the Indian Arms Act. Section 39 prescribes that no prosecution shall be instituted against any person in respect of any person under Section 3 without the previous sanction of the District Magistrate. That means, the institution of the prosecution i.e. filing of the charge-sheet without the previous sanction of the District Magistrate itself is not maintainable. In other words, the said sanction from District Magistrate is mandatory for filing of the charge-sheet. In the entire charge-sheet, there is absolutely no such document has been produced. Learned APP is pointing out that such application was given by District Magistrate, Jalna on 11.07.2024 for which the communication was made on 17.04.2024 and, therefore, she submits that when the communication was made prior to the filing of the charge-sheet, the facts should be considered. Here, in this case, the charge-sheet has been filed on 22.04.2024 i.e. within the five days from the communication seeking sanction from the District Magistrate, Jalna. However, actual sanction has been accorded on 11.07.2024. The

mandatory condition in Section 39 of the Indian Arms Act has not been fulfilled here. At the cost of repetition, we would insist that it is mandatory for the prosecution, to prosecute a person for any offence under Section 3, there has to be a previous sanction of the District Magistrate i.e. it should be prior to the filing of the charge-sheet. When this basic requirement has not been fulfilled, the applicant cannot be asked to face the trial.

4. The case can be considered from another angle also. Taking into consideration the entire contents of the charge-sheet, it can be seen that except the statement of the co-accused, there is nothing against the applicant. The said statement is also inadmissible in nature and on this count also, it would be an abuse of process of law, if the applicant is asked to face the trial. Hence, this is a fit case where we should exercise our powers under Section 482 of the Code of Criminal Procedure. Hence, the following order :-

ORDER

- I) Criminal Application stands allowed.
- II) The FIR vide Crime No.04 of 2024 dated 02.01.2024 registered with Kadim Jalna Police Station, District Jalna as well as the proceedings in Regular Criminal Case No.374 of 2024,

pending before the learned Chief Judicial Magistrate, Jalna for the offences under Section 3 punishable under Section 25 of the Indian Arms Act, stand quashed and set aside as against the present applicant – **Ashishsingh Ishwarsingh Chavan.**

[SANJAY A. DESHMUKH]
JUDGE

[SMT. VIBHA KANKANWADI]
JUDGE

scm