



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

CRIMINAL APPLICATION NO. 3541 OF 2024

1. Maharudra @ Aba S/o Narayan Muley,
Age: 40 years, Occup: Agri
R/o: Ghodka Rajuri, Ta. And District Beed.

.....APPLICANT

VERSUS

1. The State of Maharashtra
Through: The Police Inspector,
Dharur Police Station,
Tq. Dharur, District: Beed

Copy of respondents to be served
on Public Prosecutor High Court
Bench at Aurangabad

2. Mr. Raju S/o Rupchand Wanjare,
Age: 39 years, Occup: Police Head
Constable, B.No. 1051, P.S. Kaij,
R/o: Sub-Divisional Office Police Kaij,
Tq. Kaij, District Beed.

.....RESPONDENTS

...
Mr. S. S. Solanke h/f Mr. M. P. Kale, Advocate for Applicant
Mr. A. D. Wange, APP for Respondent-State
...

**CORAM : SMT. VIBHA KANKANWADI
AND
ROHIT W. JOSHI, JJ.**

Dated : March 25, 2025

ORDER :-

. Present application is filed for quashment of the proceedings in Regular Criminal Case No.4 of 2024 pending before learned Judicial Magistrate First Class, Dharur, District, Beed arising out of First Information Report vide Crime No.255 of 2023 dated 15.08.2023 registered with Dharur Police Station, Tq. Dharur, Dist. Beed for the offence punishable under Sections 188, 272, 273 and 328 read with Section 34 of the Indian Penal Code.

2. Heard learned Advocate for the applicant and learned APP for respondent-State. In order to cut short, it may be stated that both of them have made submissions in support of their respective contentions.

3. Perusal of the entire charge-sheet including the First Information Report which has been lodged by respondent No.2 in his capacity as Police Hawaldar would show that raid was conducted and a person by name Akash Kishorprasad Tiwari was found with Gutkha being Masala and Scented Tobacco. It is then stated that in presence of Panchas, when inquiry was made with Akash, he had stated that he had purchased the said articles from the present applicant and other persons. Thus, only on the basis of such statement, it appears that he has been made as co-accused. The

statement of the co-accused is inadmissible. Even if we consider the statement of the co-accused for a while, yet, the police have not utilized the said statement and have not recovered anything from the present applicant.

4. Learned APP submits that other 18 offences of similar nature are registered against the present applicant. We are basically on the point that what is the evidence that has been collected in the matter and whether it would give rise to the ingredients of the offences for which the charge-sheet has been filed. As aforesaid except the statement of the co-accused, there is nothing. Under such circumstance, it would be abuse of process of law, if the applicant is directed to face the trial. Hence following order:

ORDER

- i. Application stands allowed.
- ii. Proceedings in Regular Criminal Case No.4 of 2024 pending before learned Judicial Magistrate First Class, Dharur, District, Beed arising out of First Information Report vide Crime No.255 of 2023 dated 15.08.2023 registered with Dharur Police Station, Taluka Dharur, District Beed, for the offence

punishable under Sections 188, 272, 273 and 328 read with Section 34 of the Indian Penal Code, stands quashed and set aside as against applicant viz. **Maharudra @ Aba S/o Narayan Muley.**

(ROHIT W. JOSHI, J.)

(SMT. VIBHA KANKANWADI, J.)