



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

65 CRIMINAL WRIT PETITION NO.1356 OF 2023

Revannath Nivrutti Chadar,
Age 39 yrs., Occ. Agri.,
R/o Bhatsangvi, Tq. & Dist. Beed.

... Petitioner

... **Versus** ...

- 1 The State of Maharashtra
Through the Police Inspector,
Shivaji Nagar Police Station,
Beed, Tq. & Dist. Beed.
- 2 Ganesh Mahadeo Parjane,
Age major, Occ. Service as
Police Head Constable, B.No.2130,
Shivaji Nagar Police Station,
Beed. Tq. & Dist. Beed.

... Respondents

...

Mr. A.L. Kanade, Advocate for petitioner

Mr. S.A. Gaikwad, APP for respondent No.1

...

CORAM : SMT. VIBHA KANKANWADI &
ROHIT W. JOSHI, JJ.

DATE : 08th JANUARY, 2025

ORDER : (PER : SMT. VIBHA KANKANWADI, J.)

1 Present writ petition has been filed invoking the constitutional powers of this Court under Article 226 of the Constitution of India and inherent powers under Section 482 of the Code of Criminal Procedure initially for quashing the First Information Report vide Crime No.390/2023 dated 22.07.2023 registered with Shivaji Nagar Police Station, Beed, Tq. & Dist. Beed and by way of amendment for quashing the proceedings in Regular Criminal Case No.30/2024 pending before learned Judicial Magistrate First Class, Beed, for the offence punishable under Sections 328, 188, 273 read with Section 34 of the Indian Penal Code, 1860 and under Sections 132 and 184 of the Motor Vehicles Act, 1988.

2 Heard learned Advocate Mr. A.L. Kanade for petitioner and learned APP Mr. S.A. Gaikwad for respondent No.1. In order to cut short, it can be said that they have argued in support of their respective contentions.

3 Perusal of First Information Report and charge sheet would show that First Information Report has been lodged by Police Head Constable Ganesh Mahadeo Parjane attached to Shivaji Nagar Police Station, Beed. He states that his superior had received secret information on 22.07.2023 that one person would be transporting Gutkha (the banned food article) on a

scooty from the road in front of Kaku Nana Hospital. Accordingly, they intercepted the said scooty. Though the driver tried to run away, he was nabbed. He disclosed his name as Sayyad Javed Sayyad Usman. Search of the vehicle was taken, wherein scented tobacco bags of different companies having small sachets were found. Inquiry was made. Later on, after the registration of the offence, name of present applicant was revealed. Here, it is to be noted that First Information Report is only against said Sayyad Javed, but then the name of present applicant is stated to have been transpired from the call details from the mobile of co-accused and also that from the payment App of the mobile of the accused there were payments in the name of wife of present applicant. It is stated that there were transactions of small amounts, but running into lakhs of rupees. It is to be noted that the screenshots of the payments have been collected, but even as per the police, the said account is maintained by the wife of applicant. There is no statement of wife of applicant taken under Section 161 of the Code of Criminal Procedure nor she has been made as accused. The entire charge sheet does not show any transaction between the applicant and co-accused. Under such circumstance, with such material collected in investigation it would be unjust to ask the applicant to face the trial. Therefore, case is made out for exercise of inherent powers of this Court under Section 482 of the Code of Criminal Procedure. Hence, following order.

ORDER

- i) Criminal Writ Petition stands allowed.
- ii) The proceedings in Regular Criminal Case No.30/2024 pending before learned Judicial Magistrate First Class, Beed arising out of First Information Report vide Crime No.390/2023 dated 22.07.2023 registered with Shivaji Nagar Police Station, Beed, for the offence punishable under Sections 328, 188, 273 read with Section 34 of the Indian Penal Code, 1860 and under Sections 132 and 184 of the Motor Vehicles Act, 1988, stands quashed and set aside as against applicant.

(ROHIT W. JOSHI, J.)

(SMT. VIBHA KANKANWADI, J.)

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