



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

36 CRIMINAL APPLICATION NO.4049 OF 2024

SANJAY GURNOMAL MATTA

VERSUS

THE STATE OF MAHARASHTRA

...

Mr. S.S. Manale, Advocate for applicant

Mr. S.A. Gaikwad, APP for sole respondent

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

DATE : 18th FEBRUARY, 2025

ORDER :

1 Present application has been filed for quashment of First Information Report vide Crime No.84/2024 dated 12.04.2024 registered with Mehunbare Police Station, Jalgaon, for the offence punishable under Sections 328, 272, 273, 188 read with Section 34 of the Indian Penal Code, 1860.

2 With the help of learned Advocate for applicant and learned APP we have gone through First Information Report. The First Information Report has been lodged by Police Naik Mr. Pramod Sonu Mandlik from the

Special Squad of Nashik Division in his official capacity. He says that when he along with other police personnel were patrolling on 11.04.2024, they received secret information that within the jurisdiction of Mehunbare Police Station vehicle No. MH 41-AU-6212 coming from Sendhawa (Madhya Pradesh) and the transportation of banned article Gutkha would be taken to Aurangabad. Two panchas were arranged and two persons viz. Gopi Ashok Mandore and Vivek Bansidhar Kulkarni were taken in custody along with banned article Gutkha. Upon their interrogation the name of present applicant and another person who are from Madhya Pradesh were revealed and it is stated that the banned article has been purchased from these two persons i.e. present applicant and his partner at Sendhawa (Madhya Pradesh). Including the value of the truck and the cell phone, that has been seized, the total seizure was worth Rs.18,39,840/-.

3 Learned Advocate for applicant submits that applicant is from Madhya Pradesh, where sale and purchase of Gutkha is not banned. He relies on the decision in Shankarlal Chandulal Tanwani vs. The State of Maharashtra and another in Criminal Application No.1394 of 2023 decided by this Court (Nagpur Bench) on 15.01.2024 and between the same applicant and respondent Criminal Application No.1395 of 2023 decided on the same date, wherein note was taken that the prohibited articles were purchased

from Madhya Pradesh where there is no prohibition and, therefore, it does not amount to any offence. There is no reason for us to take different view in view of clear position of facts also. Gutkha is not banned in Madhya Pradesh and it has not been pointed out that the said transportation was at the behest of present applicant. He might have sold the article at Madhya Pradesh to the persons from whose possession the food article was recovered and, therefore, it would be unjust to ask the applicant to face the trial. Hence, following order.

ORDER

- i) Criminal Application stands allowed.
- ii) First Information Report vide Crime No.84/2024 dated 12.04.2024 registered with Mehunbare Police Station, Jalgaon, for the offence punishable under Sections 328, 272, 273, 188 read with Section 34 of the Indian Penal Code, 1860, stands quashed and set aside as against applicant Sanjay Gurnomal Matta.

(SANJAY A. DESHMUKH, J.)

(SMT. VIBHA KANKANWADI, J.)

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