



IN THE HIGH COURT OF JUDICATURE AT BOMBAY

BENCH AT AURANGABAD

CRIMINAL APPLICATION NO.3913 OF 2023

Shagufta Naaz Shaikh Fazalurrahman,
Age-36 years, Occu:Incharge Head Mistress,
R/o-Ajmer Colony, Dargah Road,
Parbhani, District-Parbhani.

...APPLICANT

VERSUS

The State of Maharashtra,
Through P.I. Police Station,
Nanalpeth, Parbhani,
District-Parbhani.

...RESPONDENT

...
Mr. Shaikh Wajeed Ahmed Advocate for Applicant.
Mr. G.A. Kulkarni, A.P.P. for Respondent – State.
...

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

DATE : 5th AUGUST, 2025

ORDER [PER SMT. VIBHA KANKANWADI, J.] :

1. Present Application has been filed for quashing the charge-sheet i.e. proceedings in R.C.C. No. 577 of 2023 pending before the learned Chief Judicial Magistrate, Parbhani, arising out of the First Information Report (for short "the FIR") vide Crime No. 392 of 2022, registered with Nanalpeth Police Station,

Parbhani, District-Parbhani, on 20th September 2022, for the offence punishable under Sections 3 and 7 of the Essential Commodities Act.

2. Heard learned Advocate Mr. Shaikh for the applicant, learned APP Mr. Kulkarni for respondent - State.

3. Learned Advocate for the applicant submits that the applicant is the In-charge Head Mistress of Rizwan Urdu Primary School at Parbhani, run by Pratibha Niketan Shikshan Prasarak Mandal, Parbhani. The prosecution story is that the informant, Police Inspector Vasant Deorao Chavan of Local Crime Branch, Parbhani, had received secret information that one Shaikh Matin Shaikh Rashid and his brother Abdul Aziz Abdul Rashid are conducting business in selling rice in black by taking rice which was meant for the schools under the Scheme, "Shaleya Poshan Ahar". The raid was conducted on the house of Shaikh Matin Shaikh Rashid around 19.00 hours on 19th September 2022. Two persons were found there. Those were Shaikh Matin Shaikh Rashid and Abdul Aziz Abdul Rashid. Certain gunny bags of white colour were found and upon inquiry, they disclosed that the said rice was meant for shops in the public distribution system. They failed to produce receipt for 512 gunny bags of rice weighing

around 25,600 Kg., worth Rs.3,84,000/-. There were also 27 gunny bags of Moong Dal and 13 gunny bags of Peas. All the articles were seized and when it was asked as to from where the articles have been purchased, they told that they are procuring those articles at the behest of one Bajrang Gupta and sell it. Accused Abdul Aziz told that the said material has been purchased from ration shop owners and headmasters/teachers of school. Thus, in the FIR the name of the present applicant is not reflected. The evidence against the applicant, as has been tried to be posed by the prosecution, is in the form of statement of witness Sarwari Abdul Vakil Ahmed Abdul Samad, who is stated to be serving as clerk with Indira Gandhi High School and also running the education institution, namely, Pratibha Niketan Shikshan Prasarak Mandal, Parbhani. He states that the entire affair of the Rizwan Urdu Primary School is looked after by himself and the present applicant. The education department of Panchayat Samiti, Parbhani, makes available rice, Mung Dal and Peas under the Scheme, "Shaley Poshan Aahar" for the students and they provide meal out of the said stock to the students and the remaining stock would then be sold by him to the co-accused Shaikh Matin and Abdul Aziz. The charge-sheet would show that this Sarvari Abdul Vakil had then been added as accused No.3.

Therefore, his statement cannot be considered at all as evidence. There is no other evidence against the applicant in the charge-sheet and therefore, it would be unjust to ask her to face the trial.

4. Per contra, the learned APP strongly opposed the application and submitted that since charge-sheet has been filed and pending since 2023, let there be trial. There are witnesses who have been examined under Section 161 of the Code of Criminal Procedure, to support the case of the prosecution.

5. We agree to the submissions on behalf of the applicant that the statement of said Sarwari Abdul Vakil Ahmed, who is now accused No.3, cannot be considered at all as it has no evidentiary value. Even if for the sake of arguments it is accepted that the said rice, Mung Dal and Peas were given to the school under a particular scheme by the Government, then there should be record with the Panchayat Samiti, as well as in the school itself, as to when how much food articles were supplied. For each month what was the quota and whether the schools are required to either place their requirement for the next month with the Panchayat Samiti or the Panchayat Samiti's persons would inspect the stock each month before release of the quota

for the next month, are all the questions involved. There is no investigation from this point of view. When there was availability of documentary evidence, without seizure thereof, we cannot go by the oral evidence and therefore, it would be an abuse of process of law if the applicant is asked to face the trial. Hence, we proceed to pass the following order:-

ORDER

(I) The Application stands allowed.

(II) The charge-sheet i.e. proceedings in R.C.C. No. 577 of 2023 pending before the learned Chief Judicial Magistrate, Parbhani, arising out of the First Information Report vide Crime No.392 of 2022, registered with Nanalpeth Police Station, Parbhani, District-Parbhani, on 20th September 2022, for the offence punishable under Sections 3 and 7 of the Essential Commodities Act, stands quashed and set aside as against applicant - Shagufta Naaz Shaikh Fazalurrahman.

[SANJAY A. DESHMUKH]
JUDGE

[SMT. VIBHA KANKANWADI]
JUDGE

asb/AUGUST25