



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
NAGPUR BENCH : NAGPUR

Criminal Application (APL) No. 1031 of 2023

1. Sanket S/o Bharat Raicha
Aged about 32 years, Occ. Kirana Business
R/o Sun-city, Annex, F-12 Rajnandgaon,
District Rajnandgaon (Chhattisgarh). **... Applicant**

// VERSUS //

1. The State of Maharashtra,
Through Police Station Officer, Police Station
Lakhandur, Tq. and District Bhandara
2. Food Safety Officer,
Food and Drug Administration (M.S.)
Bhandara, Tq. and District Bhandara **... Non-applicants**

Shri S.A.Mehta, Advocate for the applicant.

Shri A.R.Chutke, APP for the non-applicant nos. 1 and 2/State.

**CORAM : ANIL S. KILOR &
PRAVIN S. PATIL, JJ.**

DATED : 15th APRIL, 2025.

ORAL JUDGMENT : (PER : PRAVIN S. PATIL, J.)

Rule. Rule is made returnable forthwith. By consent of the learned counsel for the parties, the matter is taken for final disposal.

2. By this application filed under Section 482 of the Code of Criminal Procedure, applicant is seeking to quash and set aside the First Information Report registered with Lakhandur Police Station, District

Bhandara vide Crime No. 0207 of 2023 dated 26th June, 2023 for the offence punishable under Sections 188, 272, 273 and 328 of Indian Penal Code read with Section 59 of Food Safety and Standard Act, 2006 and Rules 2011.

3. In short, the case of prosecution is that on the basis of secret information, the non-applicant no.1 intercepted vehicle bearing Registration No. MH36 AA 0544 and during the search of vehicle, it is found that in the said vehicle the accused persons were carrying the plastic bags which contains scented tobacco, Maza 108, Hukka Shisha Tambakhu, Eagle Ghutka, Hola Hukka Shisha Tobacco, having total quantity of 1818.00 kg. Therefore, non-applicant no.1 immediately intimated about the same to the Food Safety Officer. The said officer after verification of prohibited articles lodged report against the applicant and other three persons.

4. In respect of applicant, it is alleged that accused nos. 1 to 3 visited the place of present applicant at Rajnandgaon (Chattisgarh) and purchased from him, the scented tobacco and other articles which were found in the vehicle. As such, the allegation against the present applicant

is that he being a person who has supplied the prohibited articles is made accused on the statement of co-accused in the offence registered on 26th June, 2023.

5. It is the case of the applicant that he is running grocery shop and permanent resident of Rajnandgaon (Chattisgarh). He further stated that in the State of Chattisgarh, there is no prohibition for selling, transportation, storage or distribution of scented tobacco and therefore, applicant cannot be prosecuted for any act in contravention of notification issued by the Food Safety Department which is applicable to State of Maharashtra only. The learned counsel for the applicant relied upon the judgment of Co-ordinate Bench in Criminal Application No. 1394 of 2023 decided on 15th January, 2024 wherein the identical issue has been decided. In the said case, the Coordinate Bench has observed thus :

“...Precisely, it is the contention that co-accused were found selling prohibited articles in the State of Maharashtra. During investigation, it was revealed that co-accused have purchased prohibited articles from the shop of applicant, which is in the State of Madhya Pradesh. On the basis of said statement of co-accused, applicant’s complicity is unrevealed. Moreover, co-accused have also shown the spot i.e. shop at Madhya Pradesh from where they purchased the articles. It is not the case of the

State that scented tobacco is a prohibited articles at Madhya Pradesh State. In the circumstances, the State has not pointed out as to how the applicant, who is authorized to sell those articles in Madhya Pradesh can be made accused in existing crime.”

6. In the present case, the applicant is the resident of Rajnandgaon which is part of State of Chattigrah. In the State of Chattisgrah, there is no such prohibition on the business of selling, transportation, storage or distribution of scented tobacco. Hence, according to the applicant this case is squarely covered by the view taken by the Co-ordinate Bench in the case of Shankarlal S/o. Chandulal Tanwani Vs. State of Maharashtra (supra). In view of above, we are of the considered view that the criminal law set in motion against the applicant is liable to be quashed and set aside. Hence, we proceed to pass the following order.

ORDER

- i. Criminal application is allowed
- ii. First Information Report registered with Lakhandur Police Station, District Bhandara vide Crime No. 0207 of 2023 dated 26th June, 2023 for the offence punishable under Sections 188, 272, 273 and 328

of Indian Penal Code read with Section 59 of Food Safety and Standard Act, 2006 and Rules 2011 is hereby quashed and set aside against the applicant - **Sanket S/o Bharat Raicha.**

Rule is made absolute in aforesaid terms. No order as to costs.

[PRAVIN S. PATIL, J.]

[ANIL S. KILOR, J.]