



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
NAGPUR BENCH, NAGPUR.

CRIMINAL APPLICATION (APL) NO.1274 OF 2022

APPLICANT : 1) Muhammad @ Mohd Ziya S/o
Muhammad @ Mohd Yunus, Aged bout
40 years Occ- Grain Marchant R/o
Shaniwara Peth, Anjangaon Surji, Tq
Anjangaon Surji, Dist Amravati.

..VERSUS..

NON-APPLICANTS : 1) The Collector Amravati,
Collector Office, Amravati,
Tq & Dist Amravati.
2) The Tahsildar Anjangaon Surji,
Tahsil office Anjangaon Surji,
Tq. Anjangaon, Dist Amravati.
3) State of Maharashtra,
Through P. S. O. Anjangaon Surji,
Dist. Amravati

Mr. A.B. Mirza, Advocate for applicant
Mr. M.J. Khan, APP for the non-applicant Nos.1 to 3/State

CORAM : ANIL S. KILOR, J.

DATE : 3rd MARCH, 2025

ORAL JUDGMENT :

1. Heard.

2. **Rule.** Rule is made returnable forthwith. Heard
finally by consent of learned counsel for the parties.

3. This is an application arising out of the judgment and

order dated 13.04.2022, passed by the Additional Sessions Judge, Court No.2, Achalpur, dismissing the appeal against the order dated 10.01.2022 passed by the Collector, Amravati in Crime No. 672 of 2021, registered with police Station Anjangaon Surji for the offences punishable under Section 3 and 7 of the Essential Commodities Act,

4. The brief facts of the present case which give rise to the present matter, are as follows:

On a report of Supply Inspector, a crime was registered, namely Crime No.672 of 2021 with Anjangaon Surji police Station for the offences punishable under Section 3 and 7 of the Essential Commodities Act, against the applicant. Thereupon, rice worth of Rs.95,000/-, weighing 38 quintals 95 kg. was seized. It is alleged that necessary licence was not produced by the accused for purchase, sale and transport of rice and the rice seized was of public distribution.

5. Hence, the order of confiscation was passed by the Collector, Amravati under Section 6 and 6-A of the Essential Commodities Act. The Collector, vide order dated 03.03.2022,

ordered to sell the rice and the purchase amount be confiscated to the State.

6. Being aggrieved by the said order, the applicant preferred an appeal vide Criminal Appeal No.8 of 2022 before the learned Additional Sessions Judge, Court No.2, Achalpur. The learned Appellate Court, confirmed the order of Collector and dismissed the appeal.

7. The Collector in his order has noted that each sack i.e. Katta which is seized from the applicant, weighed 50 kg. Whereas, the Matrubhumi Trading Company, from where the applicant claimed to have purchased the said rice, had sold the rice in sacks, weighing 25 kg. It is therefore, held that the rice was of public distribution.

8. The learned Additional Sessions Judge confirmed the said findings. It is to be noted that it is not the case of the Collector under whose control the public distribution system is being implemented that, the quantity of rice which was seized equal to that quantity theft of rice is reported or equal to that quantity rice was found short at any place under public

distribution system.

9. In absence of any cogent evidence available on record to establish and to show that the rice seized was for public distribution, only on the basis of different size of sack, it can not be said that the rice is of public distribution.

10. It is a common knowledge that, the sacks used for packing of food grains by the trader and under public distribution system are of different colours, quality and material. It is not the case here that the rice seized from the applicant was found in such sacks meant for the public distribution.

11. In that view of the matter, in absence of any sufficient and cogent evidence, it cannot be said that the whole action is illegal and not sustainable in the eyes of law. Accordingly, I pass following order:

- (i) The application is partly allowed.
- (ii) The order dated 10.01.2022 passed by the Collector, confiscating the rice involved in the present offence and the judgment and order dated

13.04.2022, passed by the Appellate Court, are hereby quashed and set aside and accordingly, the application is allowed in terms of prayer clause (a).

12. Since it is submitted that the confiscated rice has already been distributed under public distribution system, the amount equivalent to the purchase bill produced by the applicant to the extent of the quantity of rice seized, shall be paid to the applicant.

Rule accordingly.

(ANIL S. KILOR, J.)