



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

Criminal Application (APL) No. 1484 of 2024

Sandeep S/o Gopal Chaudhari,
Aged 37 years, Occ. Private,
R/o Budhwari Peth, Umred, District Nagpur

... Applicant

// VERSUS //

1. State of Maharashtra through Police Station Officer, Police Station Bela, Tah. Umrer, District Nagpur
2. State of Maharashtra through Amarnath Yadav Sontakke, Police Station Bela, Tah. Umrer, District Nagpur

... Non-applicants

Ms. Meena Hiwase, Advocate for the applicant.
Shri N.H.Joshi, APP for the non-applicant/State.

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

DATED : 9th JUNE, 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. In this matter, the applicant is seeking to quash and set aside the proceeding Regular Criminal Case No. 3140 of 2024 pending before the Judicial Magistrate First Class, Umrer arising out of First Information

Report No. 151 of 2024 dated 26th May, 2024, registered with Police Station Bela, for the offence punishable under Sections 188, 272, 273, 328 and 109 of Indian Penal Code and under Section 26(1), 26(2)(iv), 3, 27(3)(e), 30(2)(a) and 59 of Food Safety and Standard Act 2006.

3. In the present case, the case of the prosecution is that Food Safety Officer on 26th May, 2024 lodged a complaint against the main accused namely Sachin Gavate alleging that on receipt of secret information by the Sub Divisional Officer, Nagpur, that contraband articles are stored in the premises of accused Sachin Gavate, by raiding the said premises seized the material. The co-accused Sachin Gavate during his custody stated that he had purchased the said scented tobacco from one Rakesh Sontakke. The said Rakesh Sontakke stated in his statement that he had purchased the seized material from the present applicant. As such on the basis of statement of co-accused, the offence came to be registered against the present applicant in the matter.

4. The applicant who has approached before this Court by way of present application stated that he has no way concern with the alleged offence because neither he was present at the time of raid nor there are

any allegation against him of sale or import or manufacture of unsafe food at his instance. He further stated that on the basis of statement of co-accused, he cannot be prosecuted in the matter.

5. Per contra, learned Additional Public Prosecutor strongly opposed the application by stating that the material seized from the main accused, after investigation, found to be purchased from the present applicant, therefore *prima facie* offence against him attracts and hence there is no merit in the submission of the applicant and same deserves to be rejected.

6. After considering the rival submissions of both the parties, we have perused the charge-sheet and the documents enclosed with the application.

7. From the record, it is clear that raid was done to the house and Pan Kiosk of accused Sachin Gavate and the incriminating material was collected from his premises. There is no allegation against the present applicant or any incriminating material collected from the applicant. Therefore, no role is attributed to the applicant in committing the alleged

offence. It is a well settled position of law that on the statement of co-accused, no offence can be registered against another person.

8. In the present case, though it is stated by the learned Additional Public Prosecutor that on the basis of statement of co-accused, the offence is registered but the entire charge-sheet does not demonstrate any material has been collected from the applicant after getting a clue from co-accused. Furthermore, prosecution failed to establish that applicant manufactured, stored, sale or import the unsafe food which is seized by the Food Safety Officer. As such, in absence of any material on record against applicant, prosecuting him under the offence registered against him would nothing short than abuse of process of law.

9. In view of above, we are of the considered opinion that no offence is made out against the present applicant and therefore the present application deserves to be allowed. Hence, we proceed to pass the following order.

ORDER

i. Criminal application is allowed

ii. Regular Criminal Case No. 3140 of 2024 pending before the Judicial Magistrate First Class, Umrer arising out of First Information Report No. 151 of 2024 dated 26th May, 2024 registered with Police Station Bela, for the offence punishable under Sections 188, 272, 273, 328 and 109 of Indian Penal Code and under Section 26(1), 26(2)(iv), 3, 27(3)(e), 30(2)(a) and 59 of Food Safety and Standard Act 2006 is hereby quashed and set aside against the applicant - **Sandeep S/o Gopal Chaudhari.**

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

[PRAVIN S. PATIL, J.]

[ANIL S. KILOR, J.]