



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

**CRIMINAL APPLICATION (APL) NO. 1239 OF 2024**

( Vihan S/o Mohan Kate

**Vs.**

State of Maharashtra, Thr. Police Station Officer Police Station, Sitabudi,  
Nagpur & Anr. )

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| Office Notes, Office Memoranda<br>of Coram, Appearances, Court's<br>orders or directions and<br>Registrar's orders | Court's or Judge's orders |
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Mr. S.U. Dable, Advocate for the Applicant/s.  
Mr. M.J. Khan, APP for the Non-applicant/State.

**CORAM:** URMILA JOSHI-PHALKE AND  
NANDESH S. DESHPANDE, JJ.

**DATED** : 28<sup>th</sup> NOVEMBER, 2025

1. Heard.
2. The Applicant, who is the student, has been arraigned as an accused in Crime No.1/2021 registered with Sitabuldi Police Station for the offence punishable under Section 21(A) of the Cigarettes and Other Tobacco Products (Prohibition of Advertisement and Regulation of Trade and Commerce, Production, Supply and Distribution) Act, 2003, under Sections 188, 269, 270 read with Section 34 of the Indian Penal Code 1860, under Section 51(b) of the Disaster Management Act, 2005, under Section 33 read with Section 131 of the Maharashtra Police Act 1951, under Sections 68 and 85 of the Maharashtra Prohibition Act, 1949 and under Section 3 of the Epidemic Diseases Act, 1897.

3. The Applicant seeks to quash the proceedings on merits and also more importantly stated that the Applicant's case is covered by the Government Resolution ('GR') dated 20.09.2022, wherein the decision has been taken for withdrawal of cases filed under Section 188 of the Indian Penal Code occurred during the pandemic period.

4. Learned Counsel for the Applicant, submitted that the FIR is already quashed in respect of the other co-accused in Criminal Application (APL) Nos. 1238/2023, 405/2023 and 1480/2022 arising out of the same crime.

5. The GR specifies that the Special Committee has been set up to evaluate case to case and on verifying the applicability of GR take further appropriate steps. It also specified that, if the Committee is of the opinion that the case is covered by the GR then the concerned Public Prosecutor shall apply to the Trial Court for taking appropriate action for withdrawal of prosecution.

6. Learned APP has submitted that by the Resolution passed by the Committee dated 17.09.2024 decision was taken to withdraw the case against 70 accused in Crime No.1/2024, which is under challenge. Learned APP conceded that names of all Applicants have been mentioned in the Resolution for the purpose of withdrawal. He has also furnished on record the copy of communication in the earlier Applications made by the Committee to the concerned Magistrate informing the decision of withdrawal of prosecution as per the Committee's decision dated 17.09.2024

to the extent of 70 accused persons named in the Resolution. The copy of GR is taken on record and marked as **Exh-X** for identification.

7. The Applicant finds a place in the recommendation made by the Committee, and therefore, the prosecution needs to be withdrawn against him. Thus, formality remains about passing of appropriate orders by concerned Magistrate. Having regard to the nature of accusation about the occurrence in pandemic period and the Applicant is a student, withdrawal necessitates in the proximity. It is informed that the concerned Public Prosecutor is informed for taking necessary action.

8. In the circumstances and considering the fact that the Magistrate has already passed the order. In view of that, the Application becomes infructuous and **disposed** of accordingly.

9. Pending application/s, if any, shall stand disposed of accordingly.

(NANDESH S. DESHPANDE, J.) (URMILA JOSHI-PHALKE, J.)