



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

CRIMINAL APPLICATION (APL) NO. 1517 OF 2024

(Jitendrasingh @ Munna Surjeetsingh Patawa

Vs.

State of Maharashtra, Thr. Police Station Officer, Mul, District
Chandrapur & Anr.)

Office Notes, Office Memoranda
of Coram, Appearances, Court's
orders or directions and
Registrar's orders

Court's or Judge's orders

Mr. Abhay Sambre, Advocate for the Applicant.
Ms. Sneha Dhote, APP for the Non-applicant No.1/State.

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

DATED : 8th DECEMBER, 2025

1. The present Application is preferred by the Applicant under Section 528 of the Bhartiya Nagrik Suraksha Sanhita (BNSS) 2023 for quashing of the FIR in connection with Crime No.4/2023 registered with Police Station Mul, District Chandrapur for the offence punishable under Sections 65 (a, b, c, d, e, f), 81, 83, & 103 of the Maharashtra Prohibition Act and under Section 328 of the Indian Penal Code.

2. The crime is registered on the basis of the report lodged by the Informant Gokul Pawar who is working as an Inspector of State Excise Rajura. He lodged a report on 25.01.2023 at Police Station Mul alleging that he has received the secret information that co-accused Madavi illegally

manufacturing liquor at AVG Goat Farm. On receiving the said information, he alongwith the other Police staff and panch went to the spot and search the premises and the articles, machineries used for manufacturing illegal liquor/alcohol as well as 14 barrel containing alcohol/liquor/spirit etc., worth of Rs. 16,50,000/- were seized by him. The material which was found there was also seized before the panchas and the statements of various witnesses including the owner of said land namely Maruti Kulmethe were also recorded and after completion of investigation the charge-sheet was submitted against the accused persons including the present Applicant.

3. Heard Mr. Sambre, learned Counsel for the Applicant, who has taken us to the entire charge-sheet and submitted that except the reference that the present Applicant is the habitual offender and no society member is coming forward to depose against him and no other investigation is carried out as far as the involvement of the present Applicant is concerned. None of the statements names him as well as his name is also not mentioned in the FIR. From the entire investigation papers there is no link established by the prosecution between the present Applicant and other co-accused. Thus, considering it is a case of no evidence, no purpose would be served by forcing the present Applicant to face the trial. The offences alleged against the present Applicant under Sections 65 (a, b, c, d, e, f), 81, 83 & 103 of the Maharashtra Prohibition Act is not made out as there is no allegation that he has attempted to administer the said alcohol to anybody or any stupefying substance to anybody,

the offence under Section 328 of IPC is also not made out. He submitted that, there is complete absence of *prima facie* material against the present Applicant. Merely because some offences are registered against him under the provisions of Maharashtra Prohibition Act, he is implicated falsely in the alleged offence. In view of that, the Application deserves to be allowed.

4. *Per contra*, learned APP strongly opposed for the same and submitted that during investigation the Investigating Officer has recorded the statements of various witnesses and it revealed that there is a racket of manufacturing, selling and distributing duplicate alcohol to various persons in different places and one Pawar Verma is the main accused manufacturing the illegal liquor/alcohol and the involvement of the present Applicant is also revealed, who is a habitual offender and several offence are registered against him. In view of that, the Application deserves to be rejected.

5. On hearing both the sides and on going through the entire investigation papers, admittedly secret information is received by the Informant and thereafter he conducted the raid. Admittedly, the present Applicant was neither found at the spot nor his name is disclosed during the statements of witnesses. The FIR is also silent as far as the involvement of the present Applicant is concerned. The charge-sheet also shows that during investigation the involvement of the present Applicant revealed to the Investigating Officer and as the present Applicant is a habitual offender no person from

the society came forward to depose against him. This type of allegation is levelled in the summary of the charge-sheet. As far as the habitual offender is concerned, the crime chart was filed on record, however mere the crime chart is not sufficient to show the involvement of the present Applicant in the alleged incident. What secret information is received by the Investigating Officer as far as the involvement of the present Applicant is concerned, is not clarified in the entire charge-sheet. Thus, considering the entire material collected during the investigation, there is no change in circumstances which is brought on record to show any connection between the present Applicant and the other co-accused, even the statement of other co-accused also nowhere names the present Applicant. Thus, from the entire investigation papers no *prima facie* case is made out against the present Applicant.

6. In view of the observation of the Hon'ble Apex Court in the case of ***State of Haryana & Ors. Vs. Bhajan Lal & Ors., 1992 Supp.(1) SCC 335***, wherein following principles / guidelines are laid down by the Hon'ble Apex Court for consideration of the application under Section 482 of Cr.P.C.

“(1) Where the allegations made in the first information report or the complaint, even if they are taken at their face value and accepted in their entirety do not prima facie constitute any offence or make out a case against the accused.

(2) Where the allegations in the first information report and other materials, if any, accompanying the FIR do not disclose a cognizable offence, justifying an investigation by police officers under Section 156(1) of the Code except under an order of a Magistrate within the purview of Section 155(2) of the Code.

(3) Where the uncontroverted allegations made in the

FIR or complaint and the evidence collected in support of the same do not disclose the commission of any offence and make out a case against the accused.

(4) Where, the allegations in the FIR do not constitute a cognizable offence but constitute only a non-cognizable offence, no investigation is permitted by a police officer without an order of a Magistrate as contemplated under Section 155(2) of the Code.

(5) Where the allegations made in the FIR or complaint are so absurd and inherently improbable on the basis of which no prudent person can ever reach a just conclusion that there is sufficient ground for proceeding against the accused.

(6) Where there is an express legal bar engrafted in any of the provisions of the Code or the concerned Act (under which a criminal proceeding is instituted) to the institution and continuance of the proceedings and/or where there is a specific provision in the Code or the concerned Act, providing efficacious redress for the grievance of the aggrieved party.

(7) Where a criminal proceeding is manifestly attended with mala fide and/or where the proceeding is maliciously instituted with an ulterior motive for wreaking vengeance on the accused and with a view to spite him due to private and personal grudge.”

7. The circumstances and the facts of the present case are examined, no *prima facie* case is made out against the present Applicant and forcing the present Applicant to face the trial would be an abuse of process of law. In view of that, the Application deserves to be allowed. Accordingly, we proceed to pass the following order.

ORDER

i. The Application is **allowed**.

- ii. The First Information Report in connection with Crime No. No.4/2023 registered with Police Station Mul, District Chandrapur for the offence punishable under Sections 65 (a, b, c, d, e, f), 81, 83, & 103 of the Maharashtra Prohibition Act and under Section 328 of the Indian Penal Code and consequent proceeding arising out of the same bearing Criminal Case No.88/2023 pending before the Judicial Magistrate First Class, Mul, are hereby quashed and set aside to the extent of the present Applicant.

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

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