IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

CRIMINAL APPLICATION NO. 1248 OF 2024

Shubham Balasaheb Markal
VERSUS
1. The State Of Maharashtra
2. Dharmraj Sheshrao Gaikwad

Mr. T. C. Shinde, Advocate for Applicant
Mr. S. P. Joshi, APP for Respondents/State

CORAM : R.M. JOSHI, J
DATE : OCTOBER 13, 2026

P. C. :

1. Present Application is filed under Section 482 of the Code of Criminal Procedure by Applicant seeking quashment of First Information Report bearing Crime No. No.0253/2023 registered with Jawhar Nagar police Station, Aurangabad, Dist-Aurangabad, for offence punishable under Sections 8(c) & 27 Narcotic Drugs and Psychotropic Substances Act (for short '**the Act**') and charge-sheet no. 08/24 filed in Crime no. 0253/2023 registered at Jawahar Nagar Police Station, Aurangabad, and the cognizance order dated 18/07/2024 issued by the learned JMFC, Aurangabad in S.C.C. no. 4254/2024.

2. First information report indicates that on 16.10.2023 police personnel found present Applicant and co-accused in open space smoking chilim. They found that the eyes of these two persons were red and they suspected the consumption of narcotic substance by them. Search was taken

by them in purported compliance of Section 50 of the Act. Admittedly, nothing was seized from present Applicant. From co-accused, Chilim was seized with some contents therein. After conclusion of investigation, charge-sheet has been filed. Trial Court has passed issue process order against present Applicant.

3. Learned Counsel for the Applicant submits that even if the entire material is accepted to be true, no offence is made out against the Applicant. He drew attention of the Court to the charge-sheet, which according to him, does not indicate any seizure from present Applicant. Moreover, he claims that the alleged chilim and some substance therein seized in personal search of the co-accused has not been sent to chemical analyzer for its examination. It is his submission that only blood samples of the Applicant and co-accused were sent. As far as CA report of the blood samples of the Applicant is concerned, the same is negative. He thus claims that there is no evidence on record to connect Applicant with the crime in question. As such, he seeks quashment of proceedings against Applicant.

4. Learned APP opposed the application by referring to the first information report as well as statements of police personnel who were accompanying the said raid. It is his submission that the whatever was seized was sent to CA for examination. According to him, issues sought to be raised by the Applicant can be considered by the Trial Court after giving

opportunity to prosecution to lead evidence. He drew attention of the Court to the opinion of the medical officer indicating that this is a case of consumption of weed.

5. Position of law with regard to exercise of extraordinary powers under Section 482 of the Code of Criminal Procedure is fairly settled to say that if the material collected during the course of investigation is accepted as it is and when offence is not made out, it is open for the Court to quash criminal proceedings. With the help of learned APP, this Court went through the charge-sheet and evidence collected during the course of investigation. Herein this case, admittedly nothing has been seized at the instance of or from present Applicant. The blood samples drawn of the Applicant were sent to CA. CA report indicates it to be negative. Thus, there is no material on record in the charge-sheet to show any narcotic substance being possessed or the consumption thereof by the Applicant.

6. As far as opinion of medical officer is concerned, with regard to probable consumption of weed, on the basis of clinical examination, it is not possible to derive any findings with regard to actual consumption. This could be established only by way of report of CA. There is CA report of blood examination, which is negative in this case. Thus, there is no evidence to show that Applicant at least have consumed narcotic substance.

7. Most shockingly, whatever was seized from co-accused i.e.

chilim and substance therein, was never sent to CA. As such, there is no evidence to show that provisions of the Act could be attracted to instant case. As such, Applicant cannot be asked to undergo the rigors of trial.

8. In view of above discussion, Applicant succeeds. Hence, Application stands allowed in terms of prayer clause ‘B’ and ‘B1’.

(R. M. JOSHI, J.)

Malani