IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

CRIMINAL APPLICATION NO. 4291 OF 2025

ABDUL AJIM ALIAS AZEEM SAUDAGAR ABDUL MANNAN SAUDAGAR
VERSUS
THE STATE OF MAHARASHTRA AND OTHERS
...
Shri Moinpasha Shaikh Farid, Advocate for Applicant
Shri C.V. Bhadane, APP for the Respondents/ State.
...

CORAM : SUSHIL M. GHODESWAR, J.

DATE : 03 November 2026

P. C. :-

1. Heard the learned advocates appearing for the respective parties.

2. The applicant is seeking quashment of FIR No.0549/2025 dated 27.08.2025 registered with the Nanalpeth Police Station, Parbhani, for the offences punishable under Sections 123, 223, 274, 275 read with 3(5) of the Bharatiya Nyaya Sanhita, 2023 and under Section 59 of the Food Safety and Standard Act, 2006. After completion of investigation, the charge-sheet is filed and the case is registered as RCC No.857/2025 before the learned Judicial Magistrate, First Class,

Parbhani. The applicant also seeks quashment of the further proceedings.

3. The learned advocate for the applicant submits that since the applicant came to be arrayed as an accused on the basis of the statement given by the co-accused, therefore, the instant criminal proceedings are not sustainable in eyes of law. Hence, he prayed for quashing of the FIR and further proceedings thereof.

4. Per contra, the learned APP strongly opposed the application. According to the learned APP, the present applicant is supplier of illicit contraband and as such, he being the main accused, who has supplied the illicit contraband, he is also liable to be prosecuted. The learned APP, therefore, prayed for rejection of this application.

5. After going through the FIR in question as well as the statements recorded by the Investigating Officer, it is found that the FIR has been lodged by respondent No.2/ informant on the basis of the secret information that one Shaikh Asif is possessing illicit contraband (prohibited tobacco) near Khandoba Bazar Road. Accordingly, illicit contraband came to be seized

from possession of Shaikh Asif. Upon further interrogation, the said accused Shaikh Asif told the Investigating Officer that he has purchased the said illicit contraband from the applicant for Rs.20,000/- in cash. Accordingly, the applicant came to be arrayed as an accused. Apart from the said statement, there is no other incriminating material against the present applicant.

6. The law as regards registering crime on the basis of the statement of co-accused is very much clear. In criminal prosecution, the case cannot be based upon the statement given by the co-accused and in numerous cases, the Hon'ble Supreme Court has held that such criminal prosecution cannot be maintained against the accused persons, whose names have been disclosed by the co-accused. Thus, when the material collected by the investigating agency, even if accepted at its face value, does not disclose any independent material indicating the involvement of the applicant in the alleged crime, continuation of the criminal proceedings against the applicant would amount to an abuse of the process of law. Therefore, in order to secure the ends of justice, the application deserves to be allowed. Hence, the following order:

ORDER

(a) The Criminal Application is allowed.

(b) FIR No.0549/2025 dated 27.08.2025 registered with the Nanalpeth Police Station, Parbhani and the further consequential proceedings arising out of the said FIR, are hereby quashed and set aside to the extent of the present applicant.

kps (SUSHIL M. GHODESWAR, J.)