



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

CRIMINAL APPLICATION (APL) NO. 1196 OF 2024

APPLICANT :- Sandip s/o Premratan Bhure,
Aged 27 years, Occu: Driver,
R/o Navegaon, Tq. Mohadi, Distt.
Bhandara, present residing at Sudama
Nagari, Nagpur Tq. and Dist. Nagpur.

..VERSUS..

RESPONDENTS :- 1) State of Maharashtra,
Through Police Station Officer, Mohadi
Police Station, Tq. Mohadi, Dist.
Bhandara.
2) Food Safety Officer, Food and Drug
Administration (M.S.), Bhandara.

Mr. Shyamsundar Ajay Mohta, counsel for applicant.
Ms Soniya Thakur, APP for respondent/State.

CORAM : PRAVIN S. PATIL, J.

DATE : 05/02/2026

ORAL JUDGMENT :

1. Heard. **Rule.** Rule made returnable forthwith. By consent of Mr. Shyamsundar Ajay Mohta, learned counsel for the applicant and Ms. Soniya Thakur, learned APP for respondent/State, the application is taken up for final hearing at the stage of admission.

2. By way of present application, the applicant seeks to challenge Sessions Case No. 46 of 2024 (State Vs Sandip and others), arising out of

Crime No. 104 of 2023, registered for the offences punishable under Sections 188, 272, 273 and 328 of the Indian Penal Code, 1860, and Sections 26 (2)(i), 26(2)(iv), 27(3)(e), 3(1) (zz)(iv) and Food Safety and Standard Act 2006.

3. It is the submission of the present applicant that, in view of the law laid down by the Hon'ble Supreme Court of India in the case of ***Ram Nath Vs State of Uttar Pradesh and others reported in (2024) 3 SCC 502***, the offence under the provisions of Indian Penal Code are not tenable, and the Food Safety Officer can initiate the proceedings only under the provisions of Food Safety and Standards Act. It is contended that the Food Safety Officer alone is empowered to initiate such proceedings. Therefore, relying upon the said judgment, which has been followed in subsequent decisions of the Hon'ble Supreme Court of India, the applicant seeks indulgence of this Court.

4. Ms. Soniya Thakur, learned APP for the State, has vehemently opposed the said application and prayed for rejection of the application. According to the learned APP, the issue as to whether proceedings can be continued simultaneously under the provisions of the Indian Penal Code and the Food Safety and Standards Act, 2006, is pending consideration before the Hon'ble Supreme Court of India. Therefore, it is submitted that at this stage the registration of offence cannot be quashed and set aside against the present applicant.

5. In the light of the submissions made by both the parties, I have gone through the complaint which is lodged against the present applicant.

6. In the present case, it appears that the Food Safety Officer, on receipt of information, visited the spot and found that Applicant No. 1 was travelling in a four-wheeler with contraband articles. The police officer on patrolling duty intercepted the vehicle and found that the articles being transported were banned by the State of Maharashtra vide notification dated 15/07/2022. As such, considering the fact that seized contraband articles were being

transported in violation of notification issued by the Food Safety Commissioner, the offence came to be registered against the present applicant in the matter.

7. In this regard, it is pertinent to note that, as per the law laid down by the Hon'ble Supreme Court of India in the case of ***Ram Nath*** (supra) it is held that the provisions of Food Safety and Standard Act, being the most stringent, overrides the general provisions of the Indian Penal Code, 1860, particularly in a food-related matters. Therefore, it will be proper for the prosecution that inquiry should be on the basis of provisions of Food Safety and Standards Act only.

8. Furthermore, the similar issue raised in the case of ***Sushil Kumar Gupta Vs State of West Bengal in Criminal Appeal No. 1798 of 2024 (Arising out of SLP (Crl) No. 15495 of 2023) decided on 22/03/2024***, wherein the Hon'ble Supreme Court of India has held in paragraphs 11 and 12 as under :

“11. Thus, the dictum as laid in Ram Nath (supra) is that if an accused is charged for the offences under Sections 272 and 273 respectively of the I.P.C., Section 59 of the Act, 2006 would also be attracted. In fact, the offence under Section 59 of the Act, 2006 is more stringent compared to Sections 272 and 273 of the I.P.C. respectively. The final conclusion drawn by this Court in Ram Nath (supra) is that by virtue of Section 89 of the Act, 2006, Section 59 will override the provisions of Sections 272 and 273 respectively of the I.P.C. This Court ultimately held that there cannot be simultaneous prosecution under both the statutes.

12. The sum and substance of the ratio in Ram Nath (supra) appears to be that after the enactment of the Act, 2006, more particularly, keeping in mind the offence under Section 59 of the Act, 2006, there cannot be prosecution for the offences under Sections 272 and 273 respectively of the I.P.C.”

9. In the light of this settled legal position of law, this Court has recently took a similar view in the case of ***Anil s/o Bhimrao Barange and another Vs State***

of Maharashtra and another, in Criminal Application No. 252 of 2020 decided on 03/02/2026 holding that the provisions of Food Safety and Standard Act, 2006 override the provisions of Indian Penal Code, 1860. Therefore the offence under the provisions of Indian Penal Code, 1860, cannot be continue against the applicant and thereby same deserves to be set aside.

10. In the present case, considering the fact that contraband articles were found by the Food Safety Officer, it is for the Food Safety Officer to lodge an appropriate complaint by following the due procedure as contemplated under Sections 41 and 42 of the Food Safety and Standards Act, 2006, against the present applicant. To follow such recourse, there is no impediment in the matter. In the case of *Ram Nath (supra)*, the Hon'ble Supreme Court of India has already clarified this aspect.

11. Considering the settled principals of law and the facts of the present case, I am of the considered opinion that offence regularized against the present applicant deserves to be quashed and set aside. Accordingly, I proceed to pass the following order.

ORDER

- a] The criminal application is allowed.
- b] The criminal proceeding in Regular Criminal Case No. 46 of 2024 (State Vs Sandip and others), pending on the file of Principal District and Sessions Court, Bhandara, arising out of Crime No. 104 of 2023, for the offences punishable under Sections 188, 272, 273, 328 of the Indian Penal Code, 1860, and Section 26(2) (i), 26(2)(iv), 27(3) (e), 3(1)(zz) (iv) of the Food Safety and Standard Act, 2006, are hereby quashed and set aside.
- c] The Food Safety Officer is at liberty to initiate the criminal

proceedings if so advice by invoking the provisions of Food Safety and Standard Act, 2006, in accordance with law.

d] All pending application(s) stand disposed of.

12. Rule is made absolute in the aforesaid terms. No orders as to costs.

(PRAVIN S. PATIL, J)