



Judgment

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

CRIMINAL APPLICATION APL NO.968/2025

Namdev s/o Laxman Shevale, aged 58
years, occupation: business, r/o Laxmi Nagar,
Gorakshan Road, Akola, taluka and district
Akola. **Applicant.**

:: VERSUS ::

1. State of Maharashtra, through its
Police Station Officer, Police
Station Patur, district Akola.

2. Food Safety Officer, Food and Drug
Administration (MS), Akola. **Non-applicants.**

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Shri S.Mohta, Counsel for the Applicant.

Shri N.B.Jawade, APP for NA No.1/State.

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CORAM : **URMILA JOSHI-PHALKE, J.**

DATE : **25/02/2026**

ORAL JUDGMENT

1. Heard learned counsel for the respective parties.

Admit. Heard finally by consent.

2. By this application, the applicant is seeking quashing
of FIR in connection with Crime No.408/2021 registered with
non-applicant No.1 police station for offences under Sections

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118, 272, 273, and 328 of the IPC along with Sections 30(2) (a), 3, 26(2)(j), 26(2)(iv), and 59 of the Food Safety and Standard Act, 2006.

3. The crime is registered on the basis of a report lodged by the Food Safety Officer on allegations that he has conducted a raid and during the raid, co-accused Sayayd Faizan Sayyad Rasul was found in possession of the contraband articles like scented tobacco, scented nuts, and pan masala etc. worth of Rs.13401/-. Accordingly, he has seized the said contraband articles and during investigation, it revealed that present applicant is supplier of the said contraband articles. On the basis of said statement of co-accused, he has arrayed as accused.

4. Learned counsel for the applicant submitted that except statement of co-accused, there is no material collected by the investigating agency. During the investigation, it revealed that the present applicant was in possession of contraband articles in contravention of the provisions of the

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Food Safety and Standards Act. None of statements shows involvement of the present applicant in supply of the said articles to other co accused. He has submitted that even no investigation was conducted to ascertain whether the present applicant is supplier of the said contraband articles. Thus, at this stage, no *prima facie* case is made out against the present applicant and, therefore, the FIR registered against present applicant on the basis of the statement of the co-accused deserves to be quashed and set aside as statement of the co-accused is not admissible in law.

5. *Per contra*, learned APP for the State strongly opposed the said contentions and submitted that considering the statement of the co-accused, on the basis of which, it reveals that the present applicant deals with the supply of the said contraband articles. Thus, *prima facie* case is made out against the present applicant. In view of that, the application deserves to be rejected.

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6. After hearing both sides and perusing the entire investigation papers, it reveals that during the raid, the co-accused are found in possession of the contraband articles and, therefore, they were enquired as to from whom possession they have obtained the said contraband articles and it revealed that the applicant has supplied the said contraband articles.

7. Thus, the investigation papers it reveal that except the statement of the co-accused, there is no material to connect the applicant with the alleged offence. Moreover, the investigating officer has not conducted any investigating to ascertain whether really the applicant was connected with supply of contraband articles or not.

8. The law relating to quashing of FIRs was explained by the Hon'ble Apex Court in the case of **State of Haryana and ors vs. Bhajan Lal and ors, reported in 1992 Supplementary (1) SCC 335** wherein principles have been laid down which

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are required to be considered while considering applications for quashing of the FIRs, which read as under:

“(a) 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;

(b) where the allegations in the First Information Report and other materials, if any, accompanying the F.I.R. 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;

(c) 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;

(d) 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;

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(e) 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;

(f) 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;

(g) 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.”

9. In view of above parameters, as the application deserves to be allowed, I proceed to pass following order:

ORDER

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(1) The criminal application is **allowed**.

(2) FIR in connection with Crime No.408/2021 registered with non-applicant No.1 police station for offences under Sections 118, 272, 273, and 328 of the IPC along with Sections 30(2)(a), 3, 26(2)(j), 26(2)(iv), and 59 of the Food Safety and Standard Act, 2006 is hereby quashed and set aside to the extent of present applicant Namdev s/o Laxman Shevale.

(3) Pending applications, if any, also stand **disposed of**.

Application stands **disposed of**.

(URMILA JOSHI-PHALKE, J.)

!! BrWankhede !!

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