



Judgment

2 apl1039.25

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

CRIMINAL APPLICATION APL NO.1039 OF 2025

1. Abhijit s/o Namdevrao Ingole,
aged about 28 years, occupation
grocery-shop, r/o Benoda,
taluka-Warud, district Amravati.

2. Lokesh Santosh Agrawal,
aged about 48 years, occupation:
business, r/o Warud, district-
Amravati.

3. Darshan s/o Lokesh Agrawal,
aged about 22 years, occupation:
student, r/o Warud, taluka-
Warud, district- Amravati.

..... **Applicants.**

:: VERSUS ::

1. State of Maharashtra, through
Home Department, Mantralaya,
Mumbai-32.

2. Police Station Warud,
through Police Inspector,
Police Station Warud, taluka-
Warud, district- Amravati.

3. Shri Nikhil s/o Chandrakant,
Nalavde, aged about 37 years, occupation:
Inspection Officer, tahsil office
Warud, taluka- Warud, district-

.....2/-

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Amravati, mobile No.9822503403. **Non-applicants**

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Shri R.A.Bagde, Counsel for the Applicants.

Shri N.B.Jawade, APP for NA Nos.1 & 2/State.

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

DATE : **07/04/2026**

ORAL JUDGMENT

1. Heard. **Admit.** Heard finally by consent.
2. By this application, applicants are seeking quashing of FIR in connection with Crime No.447/2025 registered with non-applicant No.2 police station for offences under Sections 3 and 7 of the Essential Commodities Act, 1955 and 311(2) and (3), 351(2) and (3), and 221 read with 3(5) of the BNS 2023 and consequent proceeding arising out of the same bearing chargesheet No.203/2025.
3. The prosecution was initiated against present applicants on the basis of a report lodged by non-applicant No.3, who is Food Inspector and working in the office of the Food Distribution, tahsil Warud, district Amravati. On 30.6.2025, at around 01:00 pm, he noticed that one vehicle Tempo bearing

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registration No.407 was carrying Gunny Bags. He, thereafter, followed the said vehicle and the said vehicle was intercepted by him when it was reached in front of one Godown situated at APMC Premises. He observed that the said Gunny Bags were containing "Rice" and upon enquiring labourers and driver of the said vehicle, he came to know that the said "Rice" was brought from Grocery Shop of present applicant No.1. The driver of the said vehicle also disclosed to him that present applicant No.1 is purchasing the "Rice" from Ration Card Holders and the same has been brought for selling to present applicant No.2 who is owner of "Lokesh Traders". The complainant, *prima facie*, found that the said stock of the "Rice" was illegal and 40 quintal of "Rice" having 80 Gunny Bags worth of Rs.92,000/- and vehicle of Rs.30,00,000/- were seized by him. Upon further enquiry to the present applicants, he found that present applicants were not having Valid Licences to stock or engage in production or business of selling or buying of the essential commodity i.e. the "Rice". He further found that the present applicants were not having Valid Licences/Permits

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for storage or transport or distribution or disposal or acquisition or use or consumption of the essential commodity. It was also found that the “Rice” seized by the complainant was containing FRK (Fortified Rice Kernels) and, therefore, samples of the “Rice” were taken and sent the same for chemical analysis on 8.7.2025 to the “National Food Laboratory, FSSAI, Mumbai to ascertain as to whether the “Rice” is belonging to the Ration Card Holders. The complainant, thereafter, lodged the report.

4. After registration of the crime, during investigation, it revealed that the present applicants were actively involved in commission of the crime. The present applicants have also tried to mislead the Investigating Officer by producing irrelevant licences. Applicant No.2 has produced licence issued under the Maharashtra Scheduled Substances Wholesale Trade Licence Order, 1998 which is licence to buy or sell or store of schedule goods bearing No.28/2014 dated 1.7.2014. The said licence is also annexed by present applicants at Annexure-A2 at page No.23. Upon bare perusal of the licence, it reveals that the said

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licence is issued by the competent authority i.e. the Tahsildar, Warud for sell or purchase of the schedule items i.e. wheat and pulses. The present applicants failed to produce any valid licences for sale or distribution or transport or storage or the essential commodity in question i.e. "Rice" and misled the complainant as well as the investigating agency. During the course of the investigation, the Investigating Officer has recorded statements of various witnesses and involvement of the present applicants revealed from the said statements. It further revealed that present applicant No.1 does not possess any licence to purchase such "Rice" for the public and, thereafter, resell the same to present applicant Nos.2 and 3. The transaction entered into by present applicants is illegal and violative of statutory provisions and, therefore, on the basis of the investigation carried out by the investigating agency, chargesheet came to be filed against the present applicants.

5. Learned counsel for applicants submitted that there is absolutely no evidence on record as far as black marketing or

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storage of the food grains reserved for the poor strata of the society. He submitted that merely on suspicion, the present applicants are implicated in the alleged offence.

He submitted that as far as applicant No.3 is concerned, there is absolutely no evidence against him to show his involvement in the alleged offence. He submitted that the present applicants were having valid licences and invited my attention towards Annexure-A2 and on that basis, he submitted that the black marketing by present applicants is not established *prima facie* and, therefore, the application deserves to be allowed.

6. Per contra, learned APP for the State strongly opposed the said contentions and submitted that during the course of the investigation, it revealed that applicant No.1 has not only stored the said food grains reserved for the poor strata of the society but also he has threatened public servants who were discharging their duties by saying that, “if they conduct a raid on his stock,

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he will commit suicide and also threatened them. Thus, the act of applicant No.1 requires to be taken into consideration.

He further invited my attention towards Annexure-A2, which is at page No.23, and submitted that upon bare perusal of the said licence, it reveals that the said licence is issued by the authority i.e. the Tahsildar to sell or purchase of schedule items and pulses. The present applicants have failed to produce any valid licences for sell or distribution or storage of the essential commodity in question i.e. "Rice" and, therefore, a prima facie case is made out against the present applicants.

He has also invited my attention towards various statements of witnesses including statements of employees working in the shop of present applicants and submitted that these employees also disclosed involvement of present applicants in the alleged offence.

In view of that, the application deserves to be rejected.

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7. Before entering into the merits of the present case, it is necessary to consider parameters laid down 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**. The said parameters are 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.”

8. In the light of the above parameters, if the facts of the present case are taken into consideration, it reveals that the prosecution was initiated against the present applicants on the basis of the report lodged by the Food Inspector working in the office of the Food Distribution, tahsil Warud, district Amravati. On 30.6.2025, a vehicle Tempo bearing registration No.407 was carrying Gunny Bags and the said vehicle was intercepted in front of one Godown situated at the APMC Premises. On

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enquiring the labourers and driver of the said vehicle, it was brought to the notice of the complainant that from the grocery shop of applicant No.1, the said "Rice" was brought in the said Godown. The driver of the said vehicle also disclosed to him that present applicant No.1 is purchasing the "Rice" from Ration Card Holders and the same has been brought for selling to present applicant No.2 who is owner of "Lokesh Traders". This fact is substantiated by various consumers who have stated before the Investigating Officer that they have sold the said food grain in the shop of applicant No.1. During the investigation, it further revealed to the investigating agency that despite repeated demands, no licences were produced either by applicant No.1 or applicant No.2.

9. Thus, involvement of the present applicants in black marketing of the said "Rice" reserved for the poor strata of the society revealed from various statements of witnesses and various statements of Revenue Officers as well as the report of the said Food Inspector also shows the involvement of present

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applicants in the alleged incident. The report of the Food Inspector is in detail who has specifically stated not only about the interception of the said vehicle Tempo but also subsequent conduct of applicant No.1 after his truck was intercepted. During the course of the investigation, statements of various witnesses are recorded, which show that the present applicants are involved in the black marketing of the said food grains reserved for the poor strata of the society. The samples of the “Rice” were already taken and sent the same for chemical analysis on 8.7.2025 to the “National Food Laboratory, FSSAI, Mumbai to ascertain as to whether the “Rice” is belonging to the Ration Card Holders. The report of the same is yet awaited.

10. Thus, during the course of the investigation, it was revealed that the present applicants were actively involved in various types of activities and not only this but also subsequent conduct of applicant No.1 also requires to be taken into consideration, who has threatened the public servants who were discharging their duties.

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11. Thus, considering the entire investigation papers, at this stage, a prima facie case is made out against present applicants and, therefore, the application deserves to be rejected and the same is **rejected**.

Application stands **disposed of**.

(URMILA JOSHI-PHALKE, J.)

!! BrWankhede !!