



Judgment

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1

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

CRIMINAL APPLICATION APL NO.1047 OF 2025

Corrected as per
Hon'ble Court's
Order dt.6.4.26

Rahul s/o Hariprasad Tiwari,
age: 33 years, occupation: business,
r/o: Kanhartoli, New Laxmi Nagar,
Gondia, tahsil and district Gondia. **Applicant.**

:: VERSUS ::

State of Maharashtra,
through Police Station Officer,
PS Tumsar, district Bhandara. **Non-applicant.**

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Mrs.S.B.Khobragade, Counsel for the Applicant.
Shri A.M.Kadukar, APP for Non-applicant No.1/State.

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CORAM : URMILA JOSHI-PHALKE, J.

DATE : 30/01/2026

ORAL JUDGMENT

1. Heard learned counsel Mrs.S.B.Khobragade for the
applicant and learned APP Shri A.M.Kadukar for the State.

Admit. Heard finally by consent.

2. By this application, the applicant is seeking quashing
of the FIR in connection with Crime No.491/2024

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2

registered for offences under Sections 3(5), 49, and 303(2) of the BNS and 48(8) of the Maharashtra Land Revenue Code and 7 and 9 of the Environment Protection Act, 1986 and consequent proceeding arising out of the same bearing chargesheet No.35/2025.

3. Learned counsel for the applicant submitted that the crime is registered on the basis of a report lodged by PSI Manohar Shahare on allegation that they received an information, while they were patrolling, that “Tipper” bearing registration No.MH-40-CT/8888 is transporting sand illegally and, therefore, they intercepted the said vehicle and on inspection of the said vehicle, they asked for permit and royalty. However, driver of the said vehicle could not show the same. On enquiry, with the said driver, he disclosed that they were transporting the said sand without any authorization on the say of the applicant. On

3

the basis of the said report, the police registered the crime against the applicant.

She further submitted that except statement of co-accused, there is no material against the applicant to connect him with the alleged offence. She submitted that there is no criminal antecedent also as far as his involvement in the theft of the sand is concerned.

She submitted that the law is settled as far as statement of co-accused is concerned, which cannot be used against the applicant to implicate him in the alleged offence.

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

4. *Per contra*, learned APP for the State strongly opposed the said contentions and submitted that considering statement of driver of the said vehicle,

4

involvement of the applicant reveals. In view of that, a *prima facie* case is made out and hence the application deserves to be rejected.

5. On hearing both the sides and perusing the entire investigation papers, it reveals that except statement of the co-accused, there is absolutely no material to connect the applicant with the alleged offence. The vehicle involvement in the said incident or in the crime is also not owned by the applicant. Thus, except statement of the co-accused, there is absolutely no material to show *prima facie* case against the applicant. In absence of any material forcing the applicant to face trial would be abuse of process of law. In view of that, the application deserves to be allowed. Accordingly, I proceed to pass following order:

ORDER

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

5

(2) The FIR in connection with Crime No.491/2024 registered for offences under Sections 3(5), 49, and 303(2) of the BNS and 48(8) of the Maharashtra Land Revenue Code and 7 and 9 of the Environment Protection Act, 1986 and consequent proceeding arising out of the same bearing chargesheet No.35/2025 are hereby quashed and set aside to the extent of applicant Rahu s/o Hariprasad Tiwari.

Application stands **disposed of**.

(URMILA JOSHI-PHALKE, J.)

!! BrWankhede !!

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