



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

CRIMINAL APPLICATION (APL) NO. 1142 OF 2025

Avinash @ Sonu S/o. Kisanrao Tathod

Vs.

State of Maharashtra

Office Notes, Office Memoranda of
Coram, appearances, Court's Orders
or directions and Registrar's order

Court's or Judge's Order

Shri Mangesh Ladhe a/w. Shri K. D. Pathade, Advocate for applicant.
Ms. Prachi Joshi, APP for non-applicant/State.

CORAM :- M. W. CHANDWANI, J.

DATED :- 08.06.2026

Heard the learned counsel for the respective parties.

2. This is an application filed under Section 528 of the Bhartiya Nagrik Suraksha Sanhita, 2023 for quashing First Information Report (FIR) No. 455/2022 registered with Police Station Shegaon City, District Buldhana for the offences punishable under Sections 3 and 7 of the Essential Commodities Act, 1955 and consequent Charge-sheet No. 30/2024 bearing Regular Criminal Case No. 74/2024.

3. It appears from the FIR that on receipt of secret information, complainant- Prakash Vilas Gavhande, Police Constable (Buckle No. 856) of Police Station Shegaon City intercepted one Bolero Pick-up vehicle bearing registration no. MH-28-PP-0094. On

inspection of the said vehicle, 60 bags (50 kgs each) containing rice were found. On enquiry, it was revealed that the rice was being brought from the Fair Price Shop owned by one Dipak Dhamal from Shegaon for selling the said rice in the black-market. Therefore, those rice bags as well as the Bolero pick-up vehicle were seized in front of the panchas by preparing spot panchama.

4. After verification done by the District Supply Office (DSO), the aforesaid offence came to be registered initially against Mohd. Ismail Mohd Iqbal, the driver of the Bolero vehicle as well Deepak Dhamal, the owner of the Fair Price Shop. During investigation, it was revealed that the said rice was being transported to the present applicant who had purchased the rice from co-accused-Deepak Dhamal. Therefore, the applicant was also arrayed as an accused in the final report submitted by the Police to the Court.

5. The learned counsel for the applicant vehemently submitted that the name of the present applicant does not appear in the FIR. It is only after a lapse of eight months, only on the basis of the statement of one Gajanan Devidas Bhaltidak, that the name of the present applicant came to be included in the charge-sheet. According to him, there is a delay of almost eight months in recording the statement of Gajanan Bhaltidak, a former employee of the present applicant. Since, the relationship between Gajanan Bhaltidak and the

applicant is strained, he gave a false statement before the Police.

6. It is further submitted by the learned counsel for the applicant that there is nothing on record to suggest that the rice which was found in the Bolero vehicle belongs to the Fair Price Shop. There is no communication of the DSO on record which confirms that the rice which was seized belongs to the Fair Price Shop. The learned counsel for the applicant additionally submits that though the rice was seized on 15.09.2022, however the seizure panchnama was prepared after three months i.e. on 08.12.2022. According to him, the material placed on record by the Police is absurd. There is no sufficient ground to proceed against the applicant. Therefore, he seeks quashing of the FIR.

7. *Per contra*, the learned APP appearing for the State objected the application and stated that there is sufficient material against the applicant to proceed in the matter and to even frame charges. According to her, delay in recording the statement can be looked into during trial and therefore, she sought rejection of the application.

8. Perusal of the charge-sheet reveals that on 15.09.2022, 60 bags of rice(50 kgs each) which belong to the Fair Price Shop owned by co-accused- Deepak Dhamal were being transported to the applicant for selling in the black-market. In the said vehicle, Gajanan Bhaltidak was

also traveling. No doubt, the name of the applicant does not appear in the FIR and initially, the offence came to be registered against the owner of the Fair Price Shop and the driver of the said vehicle; however, the charge-sheet further reveals that the statement of Gajanan Bhaltidak, an ex-employee of the applicant came to be recorded on 15.05.2023 wherein, he has stated that it is the applicant who had asked him to travel in the said vehicle for transporting 60 bags of rice from the Fair Price Shop owned by Deepak Dhamal. It is further revealed from the said statement that at the instance of the applicant, Gajanan Bhaltidak got 60 bags of rice loaded in the vehicle from the Fair Price Shop owned by Deepak Dhamal for the purpose of transporting the same to the godown of the applicant.

9. Undoubtedly, there is a delay of more than six months in recording the statement of Gajanan Bhaltidak however, that does not necessarily suggest that the witness is not being truthful. The delay in recording the statement is to be considered with other attending circumstances which can be gone into during the trial. At this stage, this Court cannot come to the conclusion that just because the statement of Gajanan Bhaltidak, who was present in the vehicle at the time of interception of the vehicle was recorded belatedly, it leads to the conclusion that the said statement is false. The presence of Gajanan Bhaltidak is also reflected from the FIR and the spot panchnama. Therefore, at this stage, it cannot be

said with certainty that the applicant is not at all concerned with the crime.

10. Sofaras the submission of the learned counsel for the applicant that no report from the DSO was obtained is concerned, perusal of the complaint shows that the complainant has enquired with the DSO who confirmed that the rice belongs to the Fair Price Shop. Nevertheless, this aspect can be considered by the Trial Court only after evidence is recorded. Thus, it is a matter of appreciation of evidence which may be brought before the Trial Court at the time of trial. Therefore, this ground will also not help the applicant.

11. Lastly, coming to the submission of the learned counsel for the applicant that seizure memo was prepared on 08.12.2022 i.e. about three months after the seizure; it appears that the applicant is relying on the Muddemal Receipt of Police Station, Shegaon which speaks about receipt of the food-grains and the vehicle by the Muddemal Official of Shegaon Police Station. Thus, this is not a seizure memo as claimed by the learned counsel for the applicant. The FIR as well as the spot panchnama itself reveal that the rice and the vehicle were seized on 15.09.2022.

12. Putting all these facts together, it seems that there are some lacunae in the case of the prosecution but the lacunae which have been pointed out by the learned counsel for the applicant can only be appreciated when

the evidence is recorded by the Trial Court and it does not warrant quashing of the FIR. At this juncture, this Court cannot say with certainty that the allegations made by the prosecution against the applicant are inherently improbable to warrant quashing of the FIR.

13. Therefore, the application is rejected.

(M. W. CHANDWANI, J.)