



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

CRIMINAL APPLICATION (APL) NO. 1166 OF 2025

1. **Gangadhar s/o Subhash Sawarker**
Aged about 41 years,
Occupation :Labour,
R/o Nage Layout Kaulkhed,
Akola Tq. and Dist. Akola
2. **Namdev @ Rama s/o Laxman Shevale**
Aged about 58 years, Occ. Labour,
R/o Laxmi Nagar, Gorakshan Road,
Akola, Tq. and Dist. Akola

APPLICANTS

// V E R S U S //

1. **The State of Maharashtra,**
Through its Police Station Officer,
Police Station Dabki Road,
Dist. Akola
2. Food Safety Officer, Food and Drug
Administration (M.S.) Akola

NON-APPLICANTS

Mr. S.A. Mohta Advocate for the applicants.
Mr. Nikhil Joshi APP for non-applicants/State.

CORAM : URMILA JOSHI PHALKE, J.

DATED : 11.02.2026

ORAL JUDGMENT :

1. Heard.
2. **ADMIT.** Taken up for final disposal with the consent
of learned counsel for the parties.

3. The present application is preferred by the applicants for quashing of the First Information Report in connection with crime No.75/2015 registered with the non-applicant No.1-Police Station Dabki Road, Akola under Sections 188, 273, 328 of the Indian Penal Code along with 26(2)(iv) & 59 of the Food Safety and Standard Act, 2006 and consequent proceeding arising out of the same bearing Charge-sheet No.39/2021 and Sessions Case No.140/2021 pending before the Additional Sessions Judge-1, Akola.

4. The crime is registered on the basis of report a secrete information received by non-applicant No.1-Police Station and it revealed that one Chetan Subhash Gupta had stored prohibited items, i.e. tobacco and pan masala, in his shop. On receiving the said secrete information, Food Safety Officer along with police conducted the raid and in the premises of said Chetan Gupta articles like pan masala Betalnuts and other contraband articles were found which are seized. On the basis of the said report police have registered crime against the applicants. During investigation the Investigating Officer has made inquiry with the other co-accused and it revealed that he has purchased the said

articles from the present applicants and other co-accused. On the basis of the said statement of the co-accused the present applicants are arrayed as an accused and after completion of the investigation the charge-sheet came to be filed against present applicants.

5. Heard learned counsel for the applicants who submitted that the case of the prosecution is that the informant who is the Food and Safety Officer on the basis of a secrete information along with the police has conducted the raid in the premises of the co-accused and during the raid the contraband articles were found in the possession of co-accused. During inquiry he stated the name and also stated the role that he has procured the said contraband articles from the present applicants. Thus, he submitted that except the statement of co-accused there is absolutely no material on record to connect the present applicant in the alleged offence and therefore, no prima-facie case is made out against the present applicants. In view of that, application deserves to be allowed.

6. Per contra, learned APP strongly opposed the same by stating that the material seized from the main accused is huge in

quantity and on the basis of investigation carried out by the Investigating Officer present applicants are arrayed as an accused therefore, a prima-facie case is made out against the applicants. In view of that, applications deserve to be rejected.

7. After considering the rival submissions of both the parties and on perusal of the investigation papers, which are placed on record for perusal, it is clear that on the basis of the statement of the co-accused that he procured the said contraband articles from the present applicants, the applicants are arrayed as an accused. During investigation nothing is revealed as far as any connection between the present applicants and other co-accused or they are dealing with any contraband articles. In the present case though it is stated by the learned APP that on the basis of the statement of co-accused the offence is registered against the present applicants but the entire charge-sheet nowhere it demonstrated that what other material has been collected by the Investigating Agency. The prosecution further could not show the applicants are the person who have supplied the said contraband articles. As such, in absence of any material on record against the present applicants prosecution under the offences registered

against them would be an abuse of process of law. In view of that the application deserves to be allowed.

8. Hence, I proceed to pass the following order:-

ORDER

(i) The Criminal Application is allowed.

(ii) The First Information Report in connection with crime No.75/2015 registered with the non-applicant No.1-Police Station Dabki Road, Akola under Sections 188, 273, 328 of the Indian Penal Code along with 26(2)(iv) & 59 of the Food Safety and Standard Act, 2006 and consequent proceeding arising out of the same bearing Charge-sheet No.39/2021 and Sessions Case No.140/2021 pending before the Additional Sessions Judge-1, Akola is quashed and set aside to the extent of applicant Nos.1 and 2 namely Gangadhar s/o Subhash Sawarker and Namdev @ Rama s/o Laxman Shevale.

9. The criminal application stands disposed of in the above said terms.

Pending applications, if any, also stand disposed of.

(URMILA JOSHI PHALKE, J.)