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IN THE HIGH COURT OF JUDICATURE AT BOMBAY
NAGPUR BENCH : NAGPUR

CRIMINAL APPLICATION (APL) NO.1331 OF 2025

1. Prashant s/o Chhedilal Daharwal,
Aged about – 33 Years,
Occupation : Business,
R/o. Yedarbuchi, Gobarwahi,
Tahsil Tumsar, District Bhandara. **APPLICANT**

// VERSUS //

1. State of Maharashtra,
Through Police Station Officer,
Gobarwahi, District Bhandara.
 2. ~~Mukesh s/o Suresh Gaydhane,~~
~~Aged about – 35 Years,~~
~~Occupation : Service,~~
~~R/o. Police Station, Gobarwahi,~~
~~Tahsil Tumsar, District Bhandara.~~**NON-APPLICANTS**
- [Deleted as per Court's
order dated 23.12.2025]

Mr. I. V. Tambi, Advocate for applicant.

Ms. M. A. Barabde, APP for non-applicant No.1/State.

CORAM : URMILA JOSHI-PHALKE, J.
DATED : 20/02/2026

ORAL JUDGMENT :

1. Heard.
2. **Admit.**
3. Heard finally with the consent of the learned Counsel
for the applicant and learned APP for the State.
4. By this application, the applicant is seeking quashing
of the FIR under Section 582 of the Bharatiya Nagarik Suraksha

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Sanhita, 2023, in connection with Crime No.235/2024 registered with Police Station Gobarwahi, District Bhandara for the offence punishable under Sections 303(2) and 3(5) of the Bharatiya Nyaya Sanhita, 2023.

5. The crime is registered on the basis of a report lodged by API of Gobarwahi, District Bhandara alleging that on 22.08.2024 at around 9.45 p.m., he along with Laxman Jadhav were on patrolling duty on the road of Gobarwahi towards Nakadongari red tractor along with the red colour trolley was intercepted by them, near Bikaner shop. At the relevant time, on inspection of the said tractor, it was revealed that the tractor driver was carrying black colour stone (Manganese) and therefore, he called two panchas and in presence of the panchas, the panchanama was drawn. The trolley was unnumbered. The material was seized and the driver of the tractor was taken into custody. During the investigation, it revealed that co-accused Surendra Anupchand Bavisatale was the owner of the said tractor. On the basis of the said investigation, the said owner of the tractor was also added as an accused. As per the investigation agency, during the investigation, the name of the present applicant was also revealed and therefore, charge sheet was filed against him.

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6. Heard learned counsel for the applicant, who taken me through the entire charge sheet as well as the recitals of the FIR and submitted that except the one sentence in the summary of the charge sheet that during the investigation the involvement of the present applicant is also revealed. There is absolutely nothing to connect the present applicant with the alleged offence. He was neither found on the spot, none of the witnesses have disclose his name. Thus, merely on suspicion, he is implicated in the alleged offence. Thus, no *prima facie* case is made out and hence, the application deserves to be allowed.

7. Per contra, learned APP invited my attention towards the statement of the co-accused, on the basis of which the present applicant was shown to be an accused in the present crime. She submitted that the statement of the co-accused substantiated by the CDR reports sufficient to show the *prima facie* case against the present applicant and hence, the application deserves to be rejected.

8. On hearing both sides and on going through the entire investigation papers, undisputedly except the statement of the co-accused, there is absolutely no material to connect the present applicant with the alleged offence to show that his involvement was in a theft of manganese or purchasing the same. Admittedly, the statement of the co-accused is not

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admissible in evidence and merely because there are CDR reports, the implication of the present applicant is not substantiated. Thus, by applying the various parameters laid down by the Hon'ble Apex Court in the case of **State of Haryana and others Vs Bhajan Lal and others** reported in **1992 Supp. (1) SCC 335**, which are reproduced as under:

“(1) 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.

(2) Where the allegations in the first information report and other materials, if any, accompanying the FIR 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.

(3) 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.

(4) 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.

(5) 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.

(6) 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

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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.

(7) 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. No *prima facie* case is made out against the present applicant. The statement of the co-accused would not be sufficient to show the *prima facie* case against him and the CDR reports which are also not helpful to the prosecution to establish the charge against the present applicant. Therefore, continuation of the criminal proceeding against the present applicant would be an abuse of the process of law. In view of that, the application deserves to be allowed. Accordingly, I proceed to pass following order:

ORDER

(i) The application is **allowed**.

(ii) The FIR in connection with Crime No.235/2024 registered with Police Station Gobarwahi, District Bhandara for the offence punishable under Sections 303(2), 3(5) of the Bharatiya Nyaya Sanhita, 2023 and the consequent proceeding raising out of the same bearing RCC No.141/2024 pending before the learned Judicial Magistrate First Class, Tumsar, are hereby quashed and set aside to the extent of the present applicant.

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The application is disposed of.

(URMILA JOSHI-PHALKE, J)

Sarkate.