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

CRIMINAL APPLICATION (APL) NO.1391 OF 2025

1. Sheikh Maheebub Sheikh Sadik,
Aged 39 Years,
Occupation : Business,
R/o Shastri Nagar,
Arni, Taluka Arni,
District Yavatmal.

.... APPLICANT

// VERSUS //

1. State of Maharashtra,
Through Police Station Officer,
Police Station, Mahagaon Police Station,
Taluka Mahagaon, District Yavatmal.

....NON-APPLICANT

Mr. Swapnil Sakhare, Advocate h/f Mr. S. A. Mohta, Advocate
for applicant.

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

CORAM : URMILA JOSHI-PHALKE, J.
DATED : 24/02/2026

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. The present application is preferred by the applicant
for quashing of the FIR in connection with Crime No.462/2020
registered under Sections 188, 272, 273, 328 of the Indian Penal
Code, registered at Police Station Mahagaon, District Yavatmal

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and the consequent proceeding arising out of the same bearing RCC No.37/2021.

5. The crime is registered on the basis a report lodged by Sanjay Chauhan, who is the Police Head Constable B. No.1784, he alleged that he received a secret information when he was on patrolling duty along with the other staff, regarding the illegal activity at Sub-Divisional office. It was also alleged that they received the secret information informing that at Dhanora, Taluka Mahagaon, District Yavatmal, Pravin Jaiswal has brought the contraband article Gutka and the same was stocked in the shop which is under the name as 'Jaiswal Kirana', therefore, they have conducted the raid wherein the co-accused was found in possession of the said contraband article. The co-accused was taken into custody and during the inquiry with the said co-accused, the name of the present applicant is revealed and therefore, he came to be arrested by registering the offence against him.

6. During the investigation, the Investigating Officer has recorded the relevant statements of the witnesses and also statement of the co-accused and after completion of the investigation submitted charge sheet against the present applicant.

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7. Heard learned counsel for the applicant, who submitted that the case of the prosecution is that the informant who is a Police Head Constable has received secret information and on the basis of the secret information, he has conducted the raid on the Godown of one Pravin Jaiswal, wherein the stock was found and the said stock was seized in presence of the panchs. It reveals that the person i.e. Pravin Hanslal Jaiswal was taken into custody and during inquiry with him, the name of the present applicant is revealed as the supplier. Thus, he submitted that except the statement of the co-accused, there is absolutely no material to show that the applicant is connected with the business of contraband article pan masala or Gutka and he is the supplier of the said stock. So, on the basis of the statement of the co-accused, which is not admissible in evidence, the applicant is arraigned is an accused. In view of that, the application deserves to be allowed.

8. Per contra, learned APP strongly opposed the said contention by stating that material seized from the main accused is huge in amount and there are criminal antecedents against the present applicant of similar nature. In view the statement of the accused, he is implicated, but there is criminal antecedent against him. In view of that, the application deserves to be rejected.

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9. After considering the rival submissions of the learned counsel for the applicant and learned APP for the State and on perusal of the entire investigation papers, except the statement of the co-accused, there is absolutely no material collected by the Investigating Agency to connect the present applicant with the alleged offence. There is absolutely no investigation carried out by the Investigating Officer to show that the present applicant is dealing with the contraband article and he is the supplier of the said contraband articles. Thus, in absence of any material on record against the applicant, prosecuting under the offences registered against him 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.462/2020 registered under Sections 188, 272, 273 and 328 of the Indian Penal Code, registered at Police Station Mahagaon, District Yavatmal and the consequent proceeding arising out of the same bearing RCC No.37/2021, is hereby quashed and set aside to the extent of the present applicant.

10. Pending application(s), if any, shall stand disposed of accordingly.

(URMILA JOSHI-PHALKE, J)