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

CRIMINAL APPLICATION (APL) NO.1432 OF 2025

1. Sarvesh s/o Shyam Deshmukh,
Aged about 25 Years,
Occupation : Student,
R/o. Fubgaon, Taluka Darvha,
District Amravati.

.... APPLICANT

// VERSUS //

1. State of Maharashtra,
Through Police Station Officer,
Police Station, Rajapeth, Amravati
Tahsil and District Amravati.
2. Mangesh s/o Bhaskarrao Solanke,
Naib-Tahsildar,
Aged about - 50,
R/o. Bhatkuli, District Amravati.

....NON-APPLICANTS

Mr. D. M. Surjuse, Advocate for applicant.
Mr. A. M. Kadukar, APP for non-applicant No.1/State.

CORAM : URMILA JOSHI-PHALKE, J.
DATED : 12/01/2026

ORAL JUDGMENT :

1. **Admit.**
2. Heard finally with the consent of the learned Counsel
for the parties.
3. This application is filed by the applicant for quashing
and setting aside the First Information Report Vide Crime
No.262/2025 dated 01.06.2025 for the offence punishable under

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Section 7 of the Maharashtra Prevention of Malpractices at University, Board and other specified Examinations Act, 1982 (for short 'the Act of 1982') and Section 223 of the Bharatiya Nyaya Sanhita, 2023 (for short 'BNS, 2023') registered with non-applicant No.1 - Police Station Rajapeth, District Amravati and the consequent proceeding arising out of the same bearing Summary Criminal Case No.7066/2025 pending before the 2nd Joint Civil Judge Junior Division and Judicial Magistrate First Class, Amravati, District Amravati.

4. The applicant is arraigned as an accused in connection with the above said crime on the basis of a report lodged by the Mangesh Bhaskarrao Solanke on an allegation that on 01.06.2025, the examination was scheduled through the MPSC and there were specific instructions to the candidates not to carry any digital diary, pager, microphone, mobile phone, neck band, smart watch or any such instruments. Despite the said instructions, the applicant was found in possession of a mobile phone, and therefore, there is a contravention of the provisions of the Act of 1982 as well as Section 223 of the BNS, 2023.

5. Heard learned counsel for the applicant, who invited my attention towards Section 7 of the Act of 1982 and submitted that the applicant was not found in the examination hall along with the mobile phone, but the spot panchnama clarifies that it

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was in his bag which he was carried. Thus, he was not found either copying by using the said instrument and thereby the offence under Section 7 is not made out. Thus, the offence under Section 223 of the BNS, 2023 is also not made out. In view of that, no *prima facie* case is made out and hence, the FIR deserves to be quashed.

6. Learned APP for the State strongly opposed the said contention on the ground that considering the statements of the witnesses and the applicant was found carrying the said bag along with him in the examination hall, *prima facie* case is made out hence, the application deserves to be rejected.

7. After hearing both sides and on perusal of the entire investigation papers, the allegation against the present applicant was that he was found along with the electronic gadget at about 11.25 at the examination center and thereby he has contravened the provision under Section 7 of the Act of 1982. On perusal of the spot panchnama, it reveals that the gadget was not found in possession of the present applicant, but it was in his bag and it was seized from the said bag. Thus, the requirement of Section 7 of the Act of 1982 is that whoever is found in or near an examination hall any electronic gadget or any such practice he follows which is unfair is punishable. For the reference Section 7 of the Act of 1982 is reproduced as under:

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7. Prohibition of copying and impersonating at examinations.— *Whoever is found in or near an examination hall by the invigilator or any other person appointed to supervise the conduct of the examination, copying answers to the question paper set at the examination, from any book, notes or answer papers of other candidates, or appearing at the examination for any other candidate or using any other unfair means, shall, on conviction, be punished with imprisonment for a term which may extend to six months, or with fine which may extend to five hundred rupees, or with both.*

8. On perusal of Section 7 of the Act of 1982 and the entire charge sheet, it reveals that the electronic gadget was not along with the present applicant while he was writing an answer sheet, but the allegation is that he was found in possession of the said electronic gadget i.e. also in his bag. It is further alleged that the applicant was carrying neck band along with the Bluetooth and the same was not found connected. It is undisputed fact that the applicant did not use cell phone for copying in that examination as contemplated under Section 7 of the Act of 1982. The ingredients of Section 7 of the Act of 1982 are not made out *prima facie* and not reveals from the charge sheet. Thus, there is no *prima facie* evidence against the applicant to proceed with the trial. Considering this aspect, compelling the applicant to face the trial 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:

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ORDER

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

(ii) The First Information Report in connection with Crime No.262/2025 dated 01.06.2025 for the offence punishable under Section 7 of the Maharashtra Prevention of Malpractices at University, Board and other specified Examinations Act, 1982 and under Section 223 of the Bharatiya Nyaya Sanhita, 2023 registered with non-applicant No.1 Police Station Rajapeth, District Amravati and the consequent proceeding arising out of the same bearing Summary Criminal Case No.7066/2025 pending before the 2nd Joint Civil Judge Junior Division and Judicial Magistrate First Class, Amravati, District Amravati are hereby quashed and set aside to the extent of the present applicant.

The application is disposed of.

(URMILA JOSHI-PHALKE, J)

Sarkate.