



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

CRIMINAL APPLICATION (APL) NO. 1590/2025

Waseem S/o Akhtar Jimari Versus State of Maharashtra & Anr.

WITH

CRIMINAL APPLICATION (APL) NO. 127/2026

Mohammed Firoz Mohammed Saddik Punjani Versus State of
Maharashtra & Anr.

WITH

CRIMINAL APPLICATION (APL) NO. 293/2026

Irfan Akbani Ismail Akbani Versus State of Maharashtra & Anr.

WITH

CRIMINAL APPLICATION (APL) NO. 146/2026

Mohammad Firoz s/o Mohammad Saddik Versus State of
Maharashtra & Anr.

WITH

CRIMINAL APPLICATION (APL) NO. 1259/2025

Mohammad Sarfaraz Khan & Ors. Versus State of Maharashtra & Anr.

Office Notes, Office Memoranda of
Coram, appearances, Court's Orders
Of direction and Registrar's orders

Court's or Judge's Order

Mr. Shyamsundar Ajay Mohata, Advocate for the Applicants.
Mr. Sandeep Bamnote, Advocate for the Applicants in Criminal
Application (APL) No. 127 of 2026.
Mr. M.A. Barabde, A.P.P for the Non-Applicant No.1/State

CORAM: MRS. VRUSHALI V. JOSHI, J.

DATE: 29.04.2026

COMMON ORDER

1. The Applicants have filed the present applications seeking to quash and set aside the First Information Report vide Crime No.228 of 2020 for the offence punishable under Sections 188, 273 of the Indian Penal Code a/w section 30(2)(a), 26,(2)(i), 26(2)

(iv) and 59 of the Food Safety Act, First Information Report vide Crime No. 709 of 2021 for the offence punishable under Sections 188, 269, 270, 272, 273 and 328 of the Indian Penal Code a/w sections 3, 26(2)(i), 26(2)(iv), 30(2) of the Food Safety Act, First Information Report vide Crime No.128 of 2021 for the offence punishable under Sections 188, 272, 273, 328 r/w 34 of the Indian Penal Code a/w sections, 26(2)(i), 26(2)(iv), 30(2)(a) and 59 of the Food Safety Act, First Information Report vide Crime No. and 1007 of 2023 for the offence punishable under Sections 188, 272, 273 and 328 of the Indian Penal Code a/w sections 26(1), 26(2)(iv), 27(3)(e), 3, 30(2)(a) of the Food Safety Act along with their respective charge-sheets, and consequential criminal proceedings arising out of their respective Crime Numbers registered at the concerned Police Stations, by invoking the jurisdiction of this Court under Section 528 of the Bharatiya Nagarik Suraksha Sanhita, 2023.

2. The prosecution's case, in brief, as emanating from the record of the present and connected matters, is that on various dates, including 22.08.2023, 03.12.2020, 21.02.2021, and 15.09.2024, the respective Food Safety Officers, acting either upon secret information or on communications received from the concerned police stations, conducted raids and inspections at different locations within their jurisdiction. In particular, on 22.08.2023, the Food Safety Officer attached to Hinganghat received intimation from the Police Station regarding the interception of a vehicle allegedly transporting scented tobacco in violation of Government Notification dated 18.07.2023, pursuant to which a raid was conducted, and contraband articles were seized. Similarly, on 03.12.2020, an inspection was

carried out at a godown in Padoli, District Chandrapur, where certain food articles allegedly prohibited under the Notification dated 15.07.2020 were found and seized. Further, on 21.02.2021, coordinated raids were conducted at multiple locations in District Washim, leading to the seizure of scented tobacco and pan masala from various premises and vehicles.

3. It is an undisputed position emerging from the record that no direct recovery has been effected from the conscious possession of the present Applicants in several of the matters, and their implication is primarily based on disclosure statements and alleged linkage drawn during investigation. It is the case of the prosecution that during the course of these raids, quantities of scented tobacco, pan masala, and allied products, stated to be banned under the relevant Government Notifications, were recovered from transport vehicles, storage godowns, and business premises. Panchnamas were prepared contemporaneously, and samples of the seized articles were allegedly collected for analysis. In some instances, the seizures were effected from vehicles in transit, while in others, from premises purportedly linked to the accused persons. Based on such seizures and the reports prepared by the Food Safety Officers, First Information Reports came to be registered on different dates, including Crime No. 1007/2023 dated 22.08.2023, Crime No. 128/2021 dated 22.02.2021, and Crime No. 0278/2024 dated 15.09.2024, invoking provisions under the Indian Penal Code as well as the Food Safety and Standards Act, 2006. Upon completion of the investigation, charge-sheets were filed on subsequent dates, including 08.03.2021, 17.11.2021, and 15.04.2025, resulting in the initiation of criminal

proceedings before the jurisdictional Magistrates and, in certain cases, committal to the Court of Sessions on account of the inclusion of serious offences.

4. Some of the major contentions on which the petition has been filed are as follows:-

a. The learned Advocate appearing for the Applicants submits that the present applications invoke the inherent jurisdiction of this Court for quashing of the impugned First Information Reports, charge-sheets and consequential proceedings, which, according to him, are manifestly illegal, devoid of merit and constitute a clear abuse of the process of law. It is contended that the Applicants have been falsely implicated and their names do not find place in the First Information Reports at the inception, and their involvement has been subsequently introduced during the course of investigation without any substantive material.

b. It is further submitted that the entire case of the prosecution rests upon the disclosure statements of co-accused persons, drivers, cleaners or alleged intermediaries, which, in law, have no independent evidentiary value unless duly corroborated by cogent and admissible evidence. The learned Advocate submits that there is a complete absence of any recovery from the conscious possession of the Applicants or any documentary material linking them with the alleged contraband articles, and therefore,

continuation of prosecution solely based on such statements is unsustainable.

- c. The learned Advocate for the Applicants further contends that even if the allegations made in the F.I.R. and charge-sheet are taken at their face value and accepted in entirety, the same do not disclose the essential ingredients of the offences alleged under the provisions of the Indian Penal Code. It is submitted that insofar as Section 328 IPC is concerned, there is no allegation of administration of any harmful substance to any person with the intent to cause hurt or facilitate the commission of any offence. Similarly, the offences under Sections 272 and 273 IPC require proof of adulteration of food or drink rendering it noxious for human consumption, which is absent in the present case. The learned Advocate submits that mere possession or transportation of alleged banned products does not satisfy these statutory requirements.
- d. It is also contended that the invocation of Section 188 of the Indian Penal Code is ex facie barred by the provisions of Section 195 of the Code of Criminal Procedure, as no complaint in writing has been filed by the competent public servant as mandated by law. In the absence of compliance with the said statutory requirement, the very registration of the F.I.R. is vitiated and without jurisdiction.
- e. The learned Advocate further submits that the entire subject matter falls squarely within the ambit of the Food Safety and Standards Act, 2006, which is

a special enactment providing a complete and self-contained code for dealing with offences relating to food safety. It is contended that Sections 41 and 42 of the said Act prescribe a mandatory procedure for search, seizure, sampling and prosecution, and in view of the overriding effect under Section 89, recourse to general penal provisions under the Indian Penal Code is impermissible. It is urged that the prosecution has failed to adhere to the mandatory statutory procedure, thereby vitiating the entire proceedings.

f. Placing reliance on the judgment in ***State of Haryana vs. Bhajan Lal (AIR 1992 SC 604)***, the learned Advocate submits that the present case squarely falls within the categories laid down therein, where the allegations made in the F.I.R., even if accepted in entirety, do not constitute any offence or where the proceedings are manifestly attended with mala fide intention. Further reliance is placed on ***Gian Singh vs. State of Punjab [(2012) 10 SCC 303]*** to contend that the inherent powers of the High Court are meant to secure the ends of justice and prevent abuse of process of law, and the present case warrants such intervention.

g. Per contra, the learned Additional Public Prosecutor appearing for the Respondent-State opposes the applications and submits that the impugned proceedings are based on material collected during investigation and disclose a *prima facie* case against the Applicants. It is contended that

the statements of co-accused persons and other witnesses recorded during the investigation clearly indicate the involvement of the Applicants in the alleged activities of transportation, storage and distribution of contraband food articles, and the same cannot be brushed aside at this stage.

- h. The learned APP further submits that the seizure of substantial quantities of banned articles from vehicles and premises connected with the accused persons establishes a prima facie nexus, and the role of the Applicants is a matter of evidence which can only be adjudicated upon during trial. It is contended that this Court, while exercising inherent jurisdiction, ought not to conduct a meticulous appreciation of evidence or embark upon a mini-trial.
- i. The learned APP also contends that the offences alleged are serious in nature and have a direct bearing on public health and safety, and therefore, the Applicants are not entitled to seek quashing of proceedings at the threshold. Reliance is placed on ***Neeharika Infrastructure Pvt. Ltd. vs. State of Maharashtra [(2021) 19 SCC 401]***, wherein it has been held that the power to quash should be exercised sparingly and with great caution. Further reliance is placed on ***State of Tamil Nadu vs. Thirukkural Perumal [(1995) 2 SCC 449]*** to submit that at the stage of quashing, the Court is only required to ascertain whether a prima facie case is made out.

5. Upon consideration of the material and rival submissions, it is evident that allegations in the FIRs and charge-sheets do not prima facie disclose offences under the stated IPC provisions, the prosecution is unsustainable in light of the special mechanism under the Food Safety and Standards Act, 2006, and the Applicants' implication, being based solely on uncorroborated disclose statements, cannot be sustained. Accordingly, continuation of the proceedings would amount to an abuse of process, and they are liable to be quashed in exercise of inherent jurisdiction.
6. Heard the learned counsel for the respective parties at length. With their able assistance, this Court has meticulously perused the First Information Reports, charge-sheets, statements recorded during investigation and the documents annexed thereto. The parameters governing the exercise of inherent jurisdiction are well settled—this Court is required to examine whether the uncontroverted allegations, as they stand, disclose the commission of any cognizable offence and whether continuation of such proceedings would amount to abuse of the process of law or result in miscarriage of justice.
7. The allegations, even if taken at their face value and accepted in entirety, do not satisfy the essential ingredients of the offences alleged under Sections 188, 269, 270, 272, 273 and 328 of the Indian Penal Code. The substratum of the prosecution case across all the connected matters is confined to alleged possession, storage or transportation of scented tobacco and pan masala, purportedly prohibited under Government Notifications. However, criminal liability under the invoked provisions requires

satisfaction of specific statutory ingredients, which are conspicuously absent in the present case.

8. A closer scrutiny of the material reveals that there is no allegation whatsoever of adulteration of any food or drink to render the same noxious for human consumption, which is a sine qua non for attracting Sections 272 and 273 IPC. The prosecution has not produced any material indicating that the seized articles were chemically altered, contaminated, or made injurious in a manner contemplated under the said provisions. Mere possession or transportation of an allegedly prohibited substance, without anything more, cannot be equated with adulteration or sale of noxious food within the meaning of these sections.
9. Similarly, the invocation of Sections 269 and 270 IPC is wholly misconceived. These provisions are attracted only when there is an act likely to spread infection of a disease dangerous to life, coupled with the requisite intention or knowledge. The allegations in the FIRs and charge-sheets are completely silent as to any act on the part of the Applicants that could potentially spread any infectious disease. The prosecution has not even attempted to establish a nexus between the alleged acts and any public health risk in terms of infectious disease transmission. Thus, the foundational elements of these offences are entirely lacking.
10. Insofar as Section 328 IPC is concerned, the same postulates administration of poison or any stupefying, intoxicating or unwholesome drug to any person with intent to cause hurt or facilitate the commission of an offence. The

material on record does not disclose even a prima facie allegation that the Applicants administered or caused to be administered any such substance to any individual. The entire case is restricted to the alleged handling of goods, without any element of administration or resultant harm. The invocation of Section 328 IPC, therefore, appears to be not only unwarranted but legally untenable. Likewise, the offence under Section 188 IPC cannot be sustained in the absence of compliance with the statutory mandate requiring a complaint by a competent public servant.

11. The prosecution under the Indian Penal Code is unsustainable in light of the statutory framework governing the field. The Food Safety and Standards Act, 2006 is a special enactment enacted with the object of consolidating laws relating to food safety and establishing a comprehensive mechanism for regulation, investigation and prosecution of offences related to food articles. The Act provides a complete code, including detailed provisions under Sections 41 and 42 governing search, seizure, sampling, analysis and initiation of prosecution.
12. It is a settled principle of law that when a special statute occupies the field, recourse to general penal provisions is impermissible unless the ingredients of such general offences are independently made out. Section 89 of the said Act confers an overriding effect over all other laws, thereby reinforcing the legislative intent that offences relating to food safety must be dealt with strictly within the framework of the special enactment. In the present cases, the prosecution has failed to demonstrate strict adherence to the mandatory procedure prescribed under

the Act, particularly about sampling, sealing, analysis and obtaining the requisite sanction before launching prosecution.

13. The deviation from the prescribed statutory procedure is not a mere irregularity but goes to the root of the matter, affecting the very validity of the prosecution. Initiation of parallel proceedings under IPC, in the absence of independent ingredients and without complying with the safeguards under the special statute, amounts to a clear jurisdictional error.
14. The Applicants are primarily founded upon disclosure statements of co-accused persons, drivers, cleaners or alleged intermediaries recorded during investigation. It is a well-established principle that such statements, unless leading to discovery under the law, have no substantive evidentiary value and cannot, by themselves, form the sole basis for prosecution.

Criminal law mandates that prosecution must be founded on credible and cogent material establishing a prima facie case. Where the entire case rests on uncorroborated statements of the co-accused, continuation of proceedings would be contrary to settled principles of law and would result in serious prejudice to the Applicants. In such circumstances, this Court has no hesitation in holding that the prosecution cannot be sustained.

15. This Court is of the considered view that the present cases squarely warrant the exercise of inherent jurisdiction to prevent abuse of the process of law and to secure the ends of justice. The principles governing such exercise have been authoritatively laid down by the Hon'ble Supreme Court in *State of Haryana vs.*

Bhajan Lal, wherein illustrative categories have been carved out where interference by the High Court would be justified, including cases where the allegations do not disclose any offence or where the proceedings are manifestly attended with mala fide intention.

16. The said principles have been consistently reiterated, including in *Gian Singh vs. State of Punjab*, which emphasises that the inherent powers are to be exercised to secure the ends of justice. At the same time, the Hon'ble Supreme Court in *Neeharika Infrastructure Pvt. Ltd. vs. State of Maharashtra* has cautioned that such powers are to be exercised sparingly and with circumspection.

17. Applying the aforesaid settled principles to the facts of the present case, it becomes evident that the allegations made in the FIRs and the material collected during investigation, even if accepted in entirety, fail to disclose the commission of any offence against the Applicants. The prosecution suffers from fundamental legal infirmities, including the absence of essential ingredients, non-compliance with statutory procedure, and a lack of admissible evidence. The continuation of such proceedings would not serve the ends of justice but would instead result in undue harassment and misuse of the criminal process. In view of the cumulative effect of the aforesaid deficiencies, this Court is satisfied that the present cases fall squarely within the parameters warranting interference. The exercise of inherent jurisdiction is therefore not only justified but necessary to prevent abuse of the process of law.

18. In view of the foregoing discussion, analysis and findings recorded hereinabove, this Court proceeds to pass the following order:

ORDER

- (i) All the Criminal Applications are **allowed**.
- (ii) First Information Report vide Crime No.228 of 2020 for the offence punishable under Sections 188, 273 of the Indian Penal Code a/w section 30(2)(a), 26,(2)(i), 26(2)(iv) and 59 of the Food Safety Act, First Information Report vide Crime No. 709 of 2021 for the offence punishable under Sections 188, 269, 270, 272, 273 and 328 of the Indian Penal Code a/w sections 3, 26(2)(i), 26(2)(iv),30(2) of the Food Safety Act, First Information Report vide Crime No.128 of 2021 for the offence punishable under Sections 188, 272, 273, 328 r/w 34 of the Indian Penal Code a/w sections, 26(2)(i), 26(2)(iv), 30(2)(a) and 59 of the Food Safety Act, First Information Report vide Crime No. and 1007 of 2023 for the offence punishable under Sections 188, 272, 273 and 328 of the Indian Penal Code a/w sections 26(1), 26(2)(iv), 27(3)(e), 3, 30(2)(a) of the Food Safety Act along with their respective charge-sheets, and consequential criminal proceedings arising out of their respective Crime Numbers registered at the concerned Police Stations, are hereby **quashed and set aside**.
- (iii) All pending applications, if any, stand disposed of.

(MRS. VRUSHALI V. JOSHI, J.)

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