



Judgment

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

CRIMINAL APPLICATION APL NO.560 OF 2026

1. Kamil Ahemad Mustak Ahemad, aged about 51 years, occupation: labour, r/o Ner Urdu High School Junior College, Gadi Ward, Pusad, district Yavatmal.

2. Imtiyaz Khan Ajab Khan, aged about 37 years, occupation- business, r/o c/o Sharifa Bi, Sudarshan Nagar, Pusad, district Yavatmal **Applicants.**

:: VERSUS ::

1. State of Maharashtra, through Police Station Officer, Vasant Nagar Police Station, Yavatmal, district Yavatmal.

2. Food Safety Officer,
Food and Drug Administration (M.S.)
Yavatmal, taluka and district Yavatmal. **Non-applicants.**

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Shri S.A.Mohta, Counsel for Applicants.
Shri K.R.Lule, APP for the NA No.1/State.

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CORAM : **URMILA JOSHI-PHALKE, J.**

DATE : **25/03/2026**

ORAL JUDGMENT

1. Heard learned counsel for applicants and learned APP for non-applicant No.1/State. **Admit.** Heard finally by consent.

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2. By this application, applicants are seeking quashing of FIR in connection with Crime No.315/2024 registered with non-applicant No.1 police station for offences under Sections 188, 273, and 328 of the IPC and 26(2), 27(3), and 30(2)(a) of the Food Safety and Standard Act, 2006 and consequent proceeding arising out of the same bearing Sessions Case No.26/2026 pending on the file of learned Additional Sessions Judge, Pusad, district Yavatmal.

3. The crime is registered on the basis of a report lodged by non-applicant No.2 (the complainant), Food Safety Officer Amitkumar Ashokkumar Uplak, on allegations that he received a call from PSI Yogesh Jadhav, Vasant Nagar Police Station, in respect of action taken against persons in respect of contraband food articles. Accordingly, he immediately rushed to the spot and PSI Yogesh Jadhav has given a detailed letter for taking further action in the matter. It was alleged that as per the said letter, PSI Yogesh Jadhav along with other police officers and panchas, acting upon the secret information, had

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conducted a raid at the house of Mohd.Avesh Mohd. Saeed i.e. accused No.1 whereat he is running a shop under the name and style as “Awesh Kirana” and found contraband articles i.e. “Scented Tobacco”. Thereafter, the said article are seized worth of Rs.84,346/- which were including scented tobacco, scented pan-masala etc. The said contraband articles are seized during investigation.

On the basis of the said report, the police have registered the crime against present applicants.

4. Learned counsel for applicants submits that names of present applicants are not mentioned in the FIR. They are implicated in the alleged offence merely on the basis of statement of co-accused who disclosed that the contraband articles found in the shop were supplied to him by present applicants. Except statement of the co-accused, there is absolutely no material collected during the investigation to show involvement of present applicants with the alleged offence.

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He submitted that even investigation is not carried out to show that present applicants are having any concern or business regarding Pan-Masala or Scented Tobacco.”

In view of that, the application deserves to be allowed.

5. *Per contra*, learned APP for the State has strongly opposed the said contentions and submitted that considering the statement of the co-accused, from which during investigation it revealed that the present applicants are suppliers of the said contraband articles, involvement of present applicants reveals. In view of that, the application deserves to be rejected.

6. After considering rival submissions of both parties and perusing the entire investigation papers, it reveals that on the basis of statement of co-accused, that he procured the said contraband articles which are supplied to him by present applicants, the present applicants are arrayed as accused.

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7. During investigation, nothing is revealed as far as any connection between present applicants and the other co-accused or they are dealing in any contraband articles.

8. In the present case, though it is stated by learned APP for the State that on the basis of statement of co-accused, the offence is registered against present applicants, the entire chargesheet nowhere demonstrates that what other material has been collected by the investigating agency.

9. The prosecution further could not show that present applicants are persons who have supplied the said contraband articles or they have any connection with the business of the said contraband articles.

10. As such, in absence of any material on record against present applicants, the prosecution, under the offences registered, as alleged, would be an abuse of process of law.

11. In view of that, the application deserves to be allowed.

Accordingly, I proceed to pass following order:

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ORDER

(1) The criminal application is **allowed**.

(2) FIR in connection with Crime No.315/2024 registered with non-applicant No.1 police station for offences under Sections 188, 273, and 328 of the IPC and 26(2), 27(3), and 30(2)(a) of the Food Safety and Standard Act, 2006 and consequent proceeding arising out of the same bearing Sessions Case No.26/2026 pending on the file of learned Additional Sessions Judge, Pusad, district Yavatmal are hereby quashed and set aside to the extent of present applicants.

Application stands **disposed of**.

(URMILA JOSHI-PHALKE, J.)