



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

CRIMINAL APPLICATION (APL) NO.590 OF 2026

1. **Wahid Khan s/o Jahangir Khan**

Aged about 51 years,
Occupation : Business,
R/o Baidpura, Akola,
Tq. And Dist. Akola

APPLICANT

// V E R S U S //

1. **State of Maharashtra,**
Through Police Station Officer,
Khadan Police Station Akola,
Tq. And Dist. Akola

2. **Food Safety Officer,**
Food and Drug Administration
(M.S.) Akola, Tq. And Distt.
Yavatmal.

NON-APPLICANTS

Mr. S.A. Mohta, Advocate for the applicant.
Mr. A.M. Joshi, APP for non-applicant /State.

CORAM : URMILA JOSHI PHALKE, J.

DATED : 26.03.2026

ORAL JUDGMENT :

1. Heard.
2. Learned APP waives service of notice for the State.

3. **ADMIT.** Taken up for final disposal with the consent of learned counsel for the parties.

4. The present application is preferred by the applicant under Section 528 of the Bharatiya Nagrik Suraksha Sanhita, 2023 (for short, 'BNS') for quashing of the First Information Report in connection with crime No.111/2015 registered at Police Station Khandan District Akola for the offences punishable under Sections 188, 273 and 328 of the Indian Penal Code read with Section 26(2)(iv) and 59(iii) of Food Safety and Standard Act, 2006 and consequent proceeding arising out of same bearing RCC No.558/2021 pending before the learned 3rd Judicial Magistrate First Class, Akola

5. The crime is registered on the basis of report lodged by Nitin Mahadeorao Navalkar who is Food Safety Officer on an allegation that he received a phone call of Police Officer Jitendra Sonwane who disclosed to him that he has intercepted one person by name Amol Ramesh Tayade who was transporting the contraband articles i.e. pan masala and scented tobacco worth of Rs.1,23,630/- in a vehicle. Therefore, the said Amol Ramesh Tayade was inquired. During inquiry with him, it revealed that

the present applicant has supplied the said contraband articles. On the basis of the said report, police have registered crime against the present applicant as well as the other co-accused

6. Heard learned counsel for the applicant who submitted that except the statement of the co-accused there is absolutely no material to connect the present applicant with the alleged offence. He submitted that even the statement of co-accused is also not recorded. The summery of the charge-sheet shows that during interrogation the co-accused has disclosed the name of present applicant as a supplier and on that basis, the present applicant was arrayed as an accused. In view of that, the application deserves to be allowed.

7. Per contra, learned APP strongly opposed the said contention and submitted that considering that the applicant is dealing with the contraband articles and he supplied the same to the other co-accused and therefore, the application deserves to be rejected.

8. After hearing both the sides and on perusal of the recitals of the FIR and investigation papers it reveals that during

the raid, the co-accused was found in possession of contraband articles and also found transporting the same. Therefore, he was intercepted and he was enquired as to from whom he has obtained the said contraband articles and it revealed that the present applicant has supplied the contraband articles. On perusal of the entire investigation papers except the statement of the informant that during interrogation the co-accused has disclosed the name of the present applicant, there is no material to connect the present applicant in the alleged offence. More over the Investigating Officer has not conducted any investigation to ascertain whether really the applicant was connected to supply of the contraband articles or not?

9. The law relating to quashing of the FIR was explained by the Hon'ble Apex Court in the case of **State Of Haryana And Ors vs Ch. Bhajan Lal and ors.** reported in **AIR 1992 SCC 604** wherein the parameters are laid down which are reproduced as under:-

(a) 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;

(b) where the allegations in the First information Report and other materials, if any, accompanying the F.I.R. 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;

(c) 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;

(d) 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;

(e) 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;

(f) 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 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;

(g) 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.

10. On applying the said parameters in the present application prima-facie case is not made out against the present applicant. In view of that, application deserves to be allowed.

11. In view of that I proceed to pass following the order:-

ORDER

(i) The Criminal Application is allowed.

(ii) The First Information Report in connection with crime No.111/2015 registered at Police Station Khandan District Akola for the offences punishable under Sections 188, 273 and 328 of the Indian Penal Code read with Section 26(2)(iv) and 59(iii) of Food Safety and Standard Act, 2006 and consequent proceeding arising out of same bearing RCC No.558/2021 pending before the learned 3rd Judicial Magistrate First Class, Akola is quashed and set aside to the extent of applicant- **Wahid Khan s/o Jahangir Khan.**

12. Criminal Application stands disposed of.

Pending applications, if any stand disposed of.

(URMILA JOSHI PHALKE, J.)