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

CRIMINAL APPLICATION (APL) NO.653 OF 2026

1. Mohammad Nadim Mohammad Hanif Makwani,
Aged 41 Years, Occupation : Labour,
R/o. Jamil Colony Amravati,
District Amravati.
2. Rama @ Namdev s/o Laxman Shevale,
Aged 58 Years, Occupation : Business,
R/o Laxmi Nagar, Gorakshan Road,
Akola, Taluka and District Akola.

.... APPLICANTS

// VERSUS //

State of Maharashtra,
Through Police Station Officer,
Khadan, Akola,
Taluka and District Akola.

....NON-APPLICANTS

Mr. S. A. Mohta, Advocate for applicants.
Mr. K. R. Lule, APP for non-applicant No.1/State.

CORAM : URMILA JOSHI-PHALKE, J.
DATED : 07/04/2026

ORAL JUDGMENT :

1. Heard.
2. **Admit.**
3. Heard finally with the consent of the learned Counsel
for the applicants and learned APP for the State.
4. Learned APP waives notice for the State.
5. The present application is preferred by applicants
under Section 482 of the Code of Criminal Procedure/under

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Section 528 of the Bharatiya Nagarik Suraksha Sanhita, 2023 for quashing of the FIR in connection with Crime No.1079/2021 registered with Police Station Khadan, Akola, District Akola for the offence punishable under Sections 188, 272, 273, 328 read with Section 34 of the Indian Penal Code and under Sections 26(2)(iv), 27(2)(e) and 59 of the Food Safety and Standards Act, 2006, and the consequent proceeding arising out of the same bearing RCC No.386/2024 pending before the 6th Judicial Magistrate First Class, Akola.

6. The crime is registered on the basis of a report lodged by ASI Gopilal Ishwarlal Mawale on an allegation that when he was on patrolling duty, he was received a secret information that one Dnyaneshwar Maroti Pohare is dealing with the contraband articles and he has stored the contraband articles in his Godown. Therefore, along with panchs the raid was conducted and scented Tobacco as well as the Pan masala were seized worth of Rs.6,45,340/-. During the inquiry with the said Dnyaneshwar, the name of the applicant No.2 was revealed and on the basis of the statement of the applicant No.2, the involvement of the applicant No.1 was revealed. On the basis of the said report, police have registered the crime. During the investigation, the statements of all the accused were recorded and after completion of the investigation, the charge sheet was submitted against the present applicants.

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7. Heard learned counsel for the applicants, who submitted that the informant, who is the Police Officer received a secret information and after conducting a raid, he seized the contraband articles from the co-accused. Except the statement of the co-accused, there is absolutely no material to show that the present applicants were the supplier or the owner of the said stock and therefore, no *prima facie* case is made out against the present applicants. In view of that, the FIR and the charge sheet deserve to be quashed.

8. Per contra, learned APP strongly opposed the said contention and submitted that the previous offences are registered against the present applicants, which is sufficiently shows that they are dealing with the contraband articles which is prohibited in the State of Maharashtra. In view of that, the application deserves to be rejected.

9. After considering the rival submissions of both parties and on perusal of the investigation papers, which are placed on record for perusal it is clear that the secret information was received by the informant regarding the storage of the contraband articles by the co-accused Dnyaneshwar Maroti Pohare, and therefore, raid was conducted and during the raid, the contraband articles worth of Rs.6,45,340/- was found which is prohibited in the State of Maharashtra. Thereafter, the

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co-accused was taken into custody, he was inquired and the name of the co-accused i.e. the applicant No.2 Rama Shevale was revealed. Thereafter, the applicant No.2 was also arrested and during the inquiry with him, the name of the applicant No.1 was revealed. Thus, on the basis of the statement of the co-accused, the involvement of the present applicant revealed. It is well settled position of law that on the statement of the co-accused, no offence can be registered against the another accused. In the present case, though it is stated by the learned APP that on the basis of the information of the co-accused, the present applicant's involvement is revealed. However, the Investigating Officer has not carried out any further investigation to ascertain whether the present applicants are dealing with any contraband articles. The entire charge sheet nowhere demonstrates that what other material has been collected by the Investigating Officer to show the involvement of the present applicants in the alleged offence. As such, in absence of any material on record against the present applicants, the continuation of the proceedings 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**.

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(ii) The FIR in connection with Crime No.1079/2021 registered with Police Station, Khadan, Akola, District Akola for the offence punishable under Sections 188, 272, 273, 328 read with Section 34 of the Indian Penal Code and under Sections 26(2)(iv), 27(2)(e) and 59 of the Food Safety and Standards Act, 2006, and the consequent proceeding arising out of the same bearing RCC No.386/2024 pending before the 6th Judicial Magistrate First Class, Akola, are hereby quashed and set aside to the extent of the present applicants.

The application is disposed of.

(URMILA JOSHI-PHALKE, J)