

CNR No. MHPA010027912022



Presented on	:	13.10.2022		
Registered on	:	13.10.2022		
Decided on	:	07.05.2025		
Duration	:	Y 2	M 6	D 24
Exhibit No. 33				

Part 'A'

IN THE COURT OF ADDL. SESSIONS JUDGE, PARBHANI.

Present : Smt. K.F.M. Khan, Additional Sessions Judge

[Date of the Judgment : 07.05.2025]

[Session Trial No. 235/2022]

F.I.R. No./2021, Police Station,

Complainant/ Prosecution	:	State of Maharashtra Through P.S.O. Pathri Police Station, Pathri Taluka Pathri, District – Parbhani
Represented by	:	Ld. APP Shri. M. P. Salapurkar.
Accused	:	1) Mohammad Sajid Muner Ansari Age : 35 years, Occupation : Panshop Residence of Bekar Mohalla, Pathri, District Parbhani 2) Ansari Mohammad Tayyab Mohammad Pasha Age : 36 years, Occupation : Labour Residence of Jodkuwwa, Taluka Pathri, District Parbhani

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Represented by	:	Ld. Adv. Shri.M.M. Pathan for accused No. 1 and 2.
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Part 'B'

Date of Offence	:	21.11.2020
Date of F.I.R.	:	21.11.2020
Date of Charge-sheet (Session Court)	:	13.10.2022
Date of Framing of Charges	:	08.02.2023
Date of Commencement of evidence	:	04.12.2023
Date on which Judgment is reserved	:	--
Date of the Judgment	:	07.05.2025
Date of the sentencing Order, if any	:	--

Accused Details :

Rank of the Accused	Name of the Accused	Date of Arrest	Date of Release on bail	Offences charged with	Whether acquitted or convicted	Sentence imposed	Period of detention undergone during Trial for purpose of section 428 of Cr.PC.
1.	Mohammad Sajid Muner Ansari	21.11.2020	26.11.2020	Section 328, 272, 273 read with Section 34 of IPC	Acquitted	----	----
2.	Ansari Mohammad Tayyab Mohammad Pasha	20.12.2020	20.12.2020	Section 328, 272, 273 read with Section 34 of IPC	Acquitted	----	----

Part 'C'

LIST OF PROSECUTION WITNESSES / DEFENCE / COURT WITNESSES

A. Prosecution :

RANK	NAME	NATURE OF EVIDENCE (Eye witness, police witness, expert witness, medical witness, panch witness, other witness)
PW-1	Mustafa Jalil Sayyad	Informant
PW-2	Shaikh Shafiq Shaikh Wajir	Spot Panch
PW-3	Manojkumar Purushottam Ahire	Investigating Officer

B. Defence Witnesses, if any :

RANK	NAME	NATURE OF EVIDENCE (Eye witness, police witness, expert witness, medical witness, panch witness, other witness)
DW 1	----	----

C. Court Witnesses, if any :

RANK	NAME	NATURE OF EVIDENCE (Eye witness, police witness, expert witness, medical witness, panch witness, other witness)
CW 1	----	----

LIST OF PROSECUTION/ DEFENCE / COURT EXHIBITS**A. Prosecution :**

Sr. No.	Exhibit Number	Description
1.	Exh.P-15/PW-1	Report
2.	Exh.P-22/PW-	Spot panchnama - Admitted by defence
3.	Exh.P-27/PW-3	Seizure Panchnama
4.	Exh.P-28/PW-3	Arrest Panchnama of accused No.1
5.	Exh.P-29/PW-3	Arrest Panchnama of accused No.2
6.	Exh.P-30/PW-3	Letter issued by Investigating

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		Officer to Food and Drugs Administration Office, Parbhani
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B. Defence :

Sr. No.	Exhibit Number	Description
01.	Exhibit D-1/ DW1	--

C. Court Exhibits :

Sr. No.	Exhibit Number	Description
01.	Exhibit C-1/ CW1	--

D. Material Objects :

Sr. No.	Material Object Number	Description
1.	MO-1	----

J U D G M E N T

(Delivered on 07.05.2025)

This charge sheet is filed under Section 328, 272, 273 read with Section 34 of the Indian Penal Code (in short "IPC").

Brief facts of the prosecution case are as under :

2. Mustafa Jalil Sayyed is the PC of Pathri police station. On 21.11.2021 he along with other police staff was on patrolling duty. While doing patrolling duty he reached at Central naka Pathri at 13.15 hours, and went to Ajmer Pan shop. Accused No. 1 is found in pan shop. Police has taken search of the pan shop wherein prohibited gutkha

worth of ₹. 765/- is found. PC Mustafa Jalil Sayyed gave report in Pathri Police Station. On his report crime NO. 449/2020 is registered under section 328, 272, 273 of IPC and its investigation is given to PSI Ahire.

3. PSI Ahire in investigation prepared spot panchnama. He recorded statement of witnesses. He arrested accused. He prepared arrest panchnama of accused. He sent sample of gutkha to the CA laboratory. On completion of investigation he filed charge sheet in Court.

4. As the offence under Section 328 of IPC is exclusively triable by the Sessions Court therefore Ld. Judicial Magistrate First Class, Pathri has committed matter to this Court.

5. This Court has framed charge against accused at Exh. 7. Accused by statement vide Exh. 8 and 9 did not plead guilty. Prosecution examined in all three witnesses and close evidence by pursis Exh. 31. Statement of the accused No. 1 under Section 351 of the Bhartiya Nagrik Suraksha Sanhita, 2023 is recorded at Exh. 32. Whereas statement of accused No. 2 is dispensed with. Order of it is passed on Exh. 1.

6. I heard arguments of Ld. APP and Ld. Advocate of the accused persons.

7. Following points arise for determination and findings thereon are given for reasons below :

SR. NO.	POINTS	FINDINGS
1.	Whether prosecution proved that accused in furtherance of their common intention administered stupefying, intoxicating or unwholesome things i.e. Rajnivas, Goa Gutkha, R.M.D. or caused to be taken by any person with intent to cause hurt to public at large or knowing it to be likely to cause hurt thereby to the public and thereby committed an offence punishable under Section 328 read with Section 34 of Indian Penal Code ?	 In the negative.
2.	Whether prosecution proved that, accused in furtherance of their common intention adulterated Rajnivas, Goa Gutkha, R.M.D. so as to make such articles noxious as food intending to sell such articles as food or knowing it to be likely that the same will be sold as noxious food thereby they have committed an offence punishable under Section 272 read with Section 34 of Indian Penal Code ?	 In the negative.

3.	Whether prosecution proved that, accused in furtherance of their common intention found in possession of Gutkha to sell Rajnivas, Goa Gutkha, R.M.D. which has become rendered or has become noxious as food knowing or having reason to believe that the same is noxious as food and thereby committed an offence punishable under Section 273 read with Section 34 of Indian Penal Code ?	 In the negative.
4.	What order ?	 Accused are acquitted.

REASONS

As to Point No. 1 to 4 :

8. PW 1 Mustafa Jalil Sayyed is the informant. His evidence shows that on 21.11.2020 he along with other police staff was on patrolling duty. He received information. Therefore he along with other police staff had been to the pan shop of accused No. 1. He has taken search of pan shop. Wherein he found different types of gutkha. He gave report in police station.

9. PW 2 Shaikh Shafiq Shaikh Wazir is the panch in whose presence seizure panchnama and spot panchnama

is prepared. His evidence shows that he did not supports to seizure panchnama as well as spot panchnama. Ld. APP has put leading questions to him. There in also he has not supported to the case of prosecution.

10. PW 3 Manojkumar Purushottam Ahire is the Investigating Officer. His evidence shows that he prepared spot panchnama ,he recorded statement of witnesses. He arrested accused. He prepared arrest panchnama of accused. He sent sample of gutkha to the Chemical analysis laboratory and on completion of investigation he filed chare sheet in Court.

11. In view of charge against accused prosecution ought to have prove that accused No. 1 was found in possession of gutkha. Gutkha which was prohibited one. He administered gutkha to any person forcibly, due to its consumption said person sustained injury. Accused made adulteration in gutkha. Accused was selling prohibited gutkha. If evidence of prosecution witnesses are taken in to account then different types of gutkha is found in pan shop of accused No. 1 is proved. But whether said gutkha was prohibited or otherwise, there is no evidence on this point on record. PW 3 has sent sample of gutkha for analysis. Initially recovery of gutkha is made from possession of accused No. 1. From the recovered gutkha sample is taken

for analysis. Taking of sample, safe handling of sample and receipt of its analysis report. There are no evidence on this point on record. Statement of carrier is not recorded. It is not on record along with whom sample of gutkha are sent for analysis. Independent panch did not prove recovery of gutkha from accused No. 1. There is no evidence against accused No. 2. Therefore ingredient under section 328, 272, 273 of IPC are not satisfied. Hence, I answer point No. 1 to 3 in negative and for point No. 4 pass following order -

ORDER	
1.	Accused No. 1) Mohammad Sajid Muner Ansari and 2) Ansari Mohammad Tayyab Mohammad Pasha are acquitted of the offence punishable under Sections 328, 272, 273 read with Section 34 of the Indian Penal Code, 1860 vide Section 258(1) of the Bhartiya Nagrik Suraksha Sanhita 2023.
2.	Bail bonds of the accused stands cancelled and their sureties are discharged.
3.	Accused shall furnish PR and SB of ₹. 20,000/- each to comply Section 481 of Bhartiya Nagrik Suraksha Sanhita, 2023.
4.	The seized muddemal Rajnivas 1 puda, Goa Gutkha 2 pude, R.M.D. 15 pouches, be destroy after appeal period.

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	Delivered and pronounced in open court.
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Date : 07.05.2025
 Place : Parbhani

(Smt.K.F.M.Khan)
 Additional Sessions Judge,
 Parbhani.

Date of Dictation of Judgment	07.05.2025
Date of transcription	09.05.2025
Date of checking of Judgment by P.O.	26.05.2025
Date of signature of P.O. on Judgment	27.05.2025
Date of Judgment uploading	27.05.2025
Holidays	--

Note : From 10.05.2025 to 25.05.2025 P.O. on Summer Vacation.

I affirm that contents of this PDF file Judgment are same, word by word, as per original Judgment.

Name of Stenographer : Togare S. S.
 Designation : Stenographer Grade-1