

MHBI0400196-2025



Received on : 01-03-2025
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Decided on : 02-05-2026
Duration : Ys Ms Ds
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Exhibit No. : 37 /A**FORM NO.XXXII****PART 'A'**

(Title page of Judgment)

[Para 44(i) of Chapter VI of Criminal Manual]

**IN THE COURT OF SESSION JUDGE AT AMBAJOGAI,
DIST. BEED.****Present : Ajitkumar B. Bhasme, Session Judge, Ambajogai.****SESSION CASE NO. 08 OF 2025.**

Prosecution The State of Maharashtra
Through Police Station, Sirsala
Tq. Parali Vaijnath, Dist.Beed.

Complainant/
Informant. Burhan Nasir Shaikh,
Occ. Service, PHC B.No.1008, Police station,
Sirsala, Dist. Beed.

Represented by
prosecution. Shri. D.M.Phad, APP for the State of
Maharashtra.

Accused. 1. Ramesh s/o. Kundlik Lahane, age 33 years
Occ. Agri., R/o. Jaikwadi Wasahat, Sirsala,
Tq. Parli Vaijnath, Dist. Beed,
2. Sartaj Shahebajkha Pathan, age 27 years,
Occ. Labour, R/o. Idgaha Mohalla, Sirsala,
Tq. Parli Vaijnath, Dist. Beed.

Represented by Adv. V.B. Bhure for accused No.1
Adv. D.D.Gangane for accused No.2.

PART 'B'**(Para 44(ii) Chapter VI Criminal Manual)**

Date of offence : 21.05.2022
Date of F.I.R. : 21.05.2022
Date of Charge-sheet : 04.08.2022
Dates of Framing of Charge : 06.03.2025
Date of commencement of evidence : 30.08.2025
On which date under statement of accused
u/s. 313 of Cr.P.C. recorded : 04.04.2026,
Date of argument : 02.05.2026
Date of Judgment : 02.05.2026

ACCUSED DETAILS

Rank of accused	Name of accused	Date of arrest	Date of release on bail	Offence charged with	Whether acquitted or convicted	Sentence imposed	Period of detention undergone during trial for the purpose of sec. 428 Cr.P.C.
1)	Ramesh s/o. Kundlik Lahane,	nominally arrested	17.06.2022 released on anticipatory bail.	Under sections 328 272, 273, 188 IPC and section 26(2)(iv) of F.S & S Act.	Acquitted	No.	Not applicable.
2)	Sartaj Shahebajkh a Pathan,	nominally arrested	17.06.2022 released on anticipatory bail.	Under sections 328 272, 273, 188 IPC and section 26(2)(iv) of F.S & S Act.	Acquitted	No.	Not applicable.

Part 'C'
(Para 44(iii) Chapter VI Criminal Manual)

List of prosecution/defence/court witnesses.

A. Prosecution :

Rank	Name	Nature of evidence
PW-1	Burhan Nashir Shaikh	Informant
PW-2	Ashok Bansi @ Bansidhar Zodge	Panch witness
PW-3	Ashish Ramakant Shengule	Investigating officer

B. Defence Witnesses, if any :

Sr.No.	Exhibit No.	Description
DW-1	Nil	Nil
DW-2	Nil	Nil

C. COURT WITNESSES, IF ANY :

Rank	Name	Nature of evidence
CW-1	No.	No.
CW-2	No.	No.

LIST OF PROSECUTION / DEFENCE / COURT EXHIBITS.

A. PROSECUTION :

Sr.No.	Exhibit No.	Description
1)	Exhibit P-1/PW1 - 20	Report.
2)	Exhibit P-2/PW2 - 23, 24	Signatures on spot and seizure panchanama
3)	Exhibit P-3/PW3 - 30, 31	Spot and seizure panchanama
4)	Exhibit P-2/PW2 - 32, 33	Letter to Assistant Commissioner Food and Drugs and its acknowledgment.
5)	Exhibit P-5/PW3 – 34	RFSL letter
	Exh.35	Evidence close pursis

B. DEFENCE :

Sr.No.	Exhibit No.	Description
1)	Exhibit D-1/DW1	Nil
2)	Exhibit D-2/DW2	Nil

D. COURT EXHIBITS :

Sr.No.	Exhibit No.	Description
1)	Exhibit C-1 / CW1	Nil
2)	Exhibit C-2 / CW2	

E. MATERIAL OBJECT :

Sr.No.	Material object No.	Description
1)	MO1 to 5	Seized contraband articles Gutkas.
2)	MO2	Nil.

CHARGE :	For the offences punishable under Sections 272, 273, 328, 188 of the Indian Penal Code, 1860 and under sections 26(2)(iv) r/w. 59 of the Food Safety and Standards Act, 2006.
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JUDGMENT**(Delivered on 02nd May, 2026)**

1. Accused Ramesh s/o. Kundlik Lahane and Sartaj Shahebajkha Pahan went through the trial for the offences punishable under sections 272, 273, 328, 188 of the Indian Penal Code, 1860 and for offences punishable under sections 26(2)(iv) r/w. Section 59 of the Food Safety and Standards Act, 2006 or the rules or regulations made thereunder.

2. **Brief facts of the prosecution case are as under :**

On 21.05.2022 at 21.00 hours PHC Burhan Nasir Shaikh,

police station Sisrsala received secret information that the owner of the Maharashtra Tea house situated in Sangale Chowk Sirsala, Sartajkhan Pathan and owner of the Lahane news paper, Ramesh Kundlik Lahane have illegally stalked contrabanned Gutka and secretly selling the same. Accordingly, with other police persons he effected raid and seized 7 packets of Rajnivs scented panmasala of Rs.1344/-, four packets of RMD Panmasala of Rs.1920/- and 14 packets of Unchi Log Unchi Pasand scented tobacco worth Rs.4200/-, total Rs.7464/-. He drew samples for chemical analysis and drew its panchanama. Thereafter, the police squad came to police station and he lodged report.

3. On receipt of report, concerned police station officer registered crime No.79/2022 for the offences punishable under sections 272, 273, 328, 188 of the Indian Penal Code, 1860 and under sections 26(2)(iv), 51(1) of the Food Safety and Standards Act, 2006. Thereafter, the investigation was handed over to Police head Constable Shengule, B.No.244. He recorded the statements of witnesses and forwarded the seized articles for the Chemical Analysis at Forensic Sciences Laboratory Aurangabad through Assistant Commissioner Food and Drugs Administration, Beed. In the meantime, the applicant / accused Vijaykumar Lodha were released on bail, therefore, they were nominally arrested and released on bail and he filed charge-sheet against accused for aforesaid offences vide section 173 of Code of Criminal Procedure, 1973.

4. As the offence punishable under section 328 of Indian Penal Code, 1860 is triable by the court of Sessions, learned Judicial

Magistrate First Class, Parali Vaijnath complied Section 207 of Code of Criminal Procedure and committed this case to this Court. On securing presence of accused, charge is framed against him below Exh.11 for offences punishable under 272, 273, 328, 188 of the Indian Penal Code, 1860 and for offences punishable under sections 26(2)(iv) r/w. Section 59 of the Food Safety and Standards Act, 2006. The contents of charges were read over to accused in vernacular, to which they understood the same, pleaded not guilty and claimed for trial. Prosecution, therefore, examined its over all three witnesses The statement of accused u/s. 313 of Cr.P.C. is recorded. Their defence is of total denial and false implication in this case. However, they never preferred to lead defence.

5. Court heard the arguments of learned A.P.P. and learned advocate for the accused.

6. Following Points do arise for determination of this Court. Court records its findings thereon for reasons to be given below.

**Sr.
No.**

POINTS

FINDINGS

1) Whether prosecution proves that, on 21.05.2022 at about 11.00 p.m. accused No.1 at Maharashtra Tea house and accused No.2 at the shop of Lahane News paper at Sirsala, adulterated an article of food namely i.e. 7 packets of Rajniwas Panmasala, 4 packets of RMD Panmasala, and 14 packets of M scented tobacco total worth Rs.7,464/- so as to make such article noxious as food, with the intention of selling such articles as food or knowing

...In negative.

same to be likely that those would be sold as food and accused thereby committed an offence punishable under section 272 of the Indian Penal Code, 1860?

- 2) Whether Prosecution proves that, on 21.05.2022 at about 11.00 p.m. accused No.1 at Maharashtra Tea house and you accused No.2 at the shop of Lahane News paper at Sirsala, sold or offered for sale or exposed for sale as food prohibited articles i.e. 7 packets of Rajniwas Panmasala, 4 packets of RMD Panmasala, and 14 packets of M scented tobacco total worth Rs.7,464/- which had become noxious as food or was in a state unfit for food knowing or having reason to believe that the same is noxious as food and accused thereby committed an offence punishable under section 273 of the Indian Penal Code, 1860?

...In negative.

- 3) Whether prosecution proves that, on 21.05.2022 at about 11.00 p.m. accused No.1 at Maharashtra Tea house and accused No.2 at the shop of Lahane News paper at Sirsala, administered the public the prohibited articles i.e. 7 packets of Rajniwas Panmasala, 4 packets of RMD Panmasala, and 14 packets of M scented tobacco total worth Rs.7,464/- or caused to be taken by public above stupefying, intoxicating or unwholesome drug, or other thing with intent to cause hurt to such person or with intent to commit or to facilitate the commission of an offence or knowing it to be likely that they will thereby cause hurt to public, and thereby accused committed an offence

...In negative.

punishable under section 328 of Indian Penal Code, 1860?

4) Whether prosecution proves that, on 21.05.2022 at about 11.00 p.m. accused No.1 at Maharashtra Tea house and accused No.2 at the shop of Lahane News paper at Sirsala, were knowing that by an order promulgated by a public servant lawfully empowered to promulgate such order where under they were directed to abstained from possessing prohibited articles i.e. 7 packets of Rajniwas Panmasala, 4 packets of RMD Panmasala, and 14 packets of M scented tobacco total worth Rs.7,464/- still they kept those articles in their possession or under their management and accordingly disobeyed such order and thereby accused committed an offence punishable under section 188 of the Indian Penal Code, 1860?

...In negative.

5) Whether prosecution proves that, on 21.05.2022 at about 11.00 p.m. accused No.1 at Maharashtra Tea house and accused No.2 at the shop of Lahane News paper at Sirsala, were found in their possession storing and for selling or distribution purpose the prohibited articles i.e.7 packets of Rajniwas Panmasala, 4 packets of RMD Panmasala, and 14 packets of M scented tobacco total worth Rs.7,464/- which are unsafe and for the time being prohibited by the Food Authority or the Central Government or the State Government in the interest of public health and thereby accused committed an offence punishable under section 26(2)(iv) of the Food Safety and Standards Act, 2006 or

...In negative.

the Rules or regulations made thereunder and thereby accused committed an offence punishable under section 59 of the said Act.

6) What order?

As per final
order

:: REASONS ::

AS TO POINTS NOS. 1 TO 6 :-

7. P.W.2 Ashok Bansi @ Bansidhr Zodge was the spot cum seizure panch witnesses. He turned hostile and did not support the prosecution case. He only admitted his signature on panchanama, but denied its contents. Consequently his evidence is not helpful to the prosecution case.

8. P.W.1 Burhan Nashir Shaikh (Exh.19) deposed that on 21.05.2022 he was attached to police station Sirsala. On that day he, API Ekshinge, Police Hawaldar Sayyad, Deshmukh and Bhadange were observing patrolling duty. He received secret information that the owner of Maharashtra T stall Sartaj Pathan and the owner of Lahane News Paper agency Ramesh Lahane were in possession contraband gutka for sale. Accordingly he called two panchas and affected raid on both places at about 21.00 hours. Both accused No.1 and 2 managed to run away. They found three types of Gutka in white bag. Those are Rajniwas scented panmasala, RMD panmasala 4 packets and gold tobacco 14 packets of worth Rs.7464/-. He drew the samples and seized the Gutka in presence of panchas and deposited the same in police station and lodged a report Exh.20.

9. In cross-examination he stated that the distance between the spot of incident and police station is of 1 k.m. and it require 10 minutes time to reach spot of incident from police station. Maharashtra T house and Lahane news paper agency are two different shops. Both shops are adjacent to each other. He don't know Lahane News Paper agency is also selling milk and ice cream. He denied that he has not seized Gutka from the spot of incident and lodged false report only to complete quota.

10. P.W.3 Ashish Ramakant Shengule (Exh.29) depose that on 22.05.2022 he was attached to Sirsala police station. Investigation of crime No.79/2022 was handed over to him. Accordingly he had gone through the report and seizure panchanama and thereafter, prepared panchanama of spot of incident in presence of panchas. Said panchanama is at Exh.30 and the seizure panchanama is at Exh.31. He further deposed that he sent the samples of muddemal to RFSL for analysis. He sent the muddemal to Assistant Commissioner, Food and Drugs Administration for disposal with letter Exh.32 and received its acknowledgment at Exh.33. Since he received the RFSL report, it is filed on record. The report is at Exh.34. He recorded the statements of witnesses and filed charge-sheet in the court.

11. In cross-examination he denied that the Lahane Milk Diary & Ice cream shop and another New Maharashtra hotel are two different shops. The spot of incident is heavy traffic road and there are several shops nearby the said shop. He denied that he has not recorded the statements of shop owners nearby the spot of incident. He had not filed document to show that the accused are owner of said shop.

12. Now coming to the appreciation of the evidence, though the informant Burhan Shaikh deposed that he along-with other police and panchas effected raid at the shops of accused No.1 and 2 and had seized the prohibited Gutka and Tobacco, first material thing is that, he himself stated that the accused managed to run away from their shop. This shows that he had never seen the accused directly as shop owner he had never seized prohibited articles directly in his presence and from the custody of the accused. Second material thing is that though he stated that, he had been to the shops of accused, none present in their shop in whose presence the prohibited Gutka was seized. Third material thing is that he then stated that it was the shops of accused, however, he admitted in his cross-examination that he had never taken the shop number or PTR of the said alleged shop of the accused. Want of all these materials brings on record sufficiently that the police never confirmed with certainty as to who was the shop owner and occupant of the said shops. In such circumstances, there is no substantial material to hold that the accused was found in possession of the prohibited articles Gutka and Tobacco worth Rs.7464/- and that he had tried to sell out or offer for sale or exposed for sale said prohibited food articles which had become noxious as food and that the accused administered the said prohibited food articles to the public being stupefying, intoxicating or unwholesome drug and with intent to cause hurt to the public. In addition to this, there is no material on record to show that the order of prohibition of Gutka was promulgated. Consequently, Court records negative findings to the points No.1 to 5.

13. Coming to the offences under sections 26(2)(iv) punishable under section 59 of the Food Safety and Standards Act, 2006, or Rules

or regulations made thereunder, since there is no evidence beyond reasonable doubt that the accused were found keeping in their possession the prohibited articles, these offences do not get proved. Even though the report of Food Analyst is received, still there is no material on record to hold that the accused were found in possession of those prohibited articles. Therefore, even though the report comes positive, it will not be useful to the prosecution. Court therefore, records it's negative findings to this point and passes following order.

:: O R D E R ::

- 1) Accused No. (1) Ramesh s/o.Kundlik Lahane and (2) Sartaj Shahebajkha Pathan are acquitted of the offences punishable under Sections 272, 273, 328, 188 of the Indian Penal Code, 1860 and for offences punishable under sections 26(2)(iv) r/w. Section 59 of the Food Safety and Standards Act, 2006 vide provisions of Section 235(1) of Code of Criminal Procedure, 1973.
- 2) Their bail bonds stands cancelled.
- 3) Accused shall furnish P.R.Bond Rs.15,000/- each and surety bond of like amount as per section 437(A) of Criminal Procedure Code.
- 4) Muddemal property i.e. contrabanned articles total worth Rs.7446/- be destroyed after appeal period is over, if already not destroyed.
- 5) Copy of Judgment be given to District Collector, Beed.

Date : 02.05.2026.

(Ajitkumar B. Bhasme)
Additional Session Judge,
Ambajogai.

:: CERTIFICATE ::

" I Affirm that the content of this PDF file are word to word as per original Judgment/Order "

Dictated on :- 02.05.2026

Transcribed on :- 02.05.2026

Checked & Signed on :- 02.05.2026

Date : 02.05.2026

(A.S.Panhale)
Stenographer Grade-I,
District Court-1, Ambajogai