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| CNR NO.MHLA040004362025  | Presented on | : | 03.11.2025 |
| | Registered on | : | 03.11.2025 |
| | Decided on | : | 20.05.2026 |
| | Duration | : | 00 Y 06 M 17 D |
| | | | Exh.23 |

IN THE COURT OF THE ADDITIONAL SESSIONS JUDGE,
AHMEDPUR
(Presided over by S. U. Wadgaonkar)
(Date of Judgment 20.05.2026)

SESSIONS CASE No.34/2025

| | | |
|-----------------------|---|--|
| Prosecution | : | The State of Maharashtra Through Police Station, Kingaon Crime No.108/2025 |
| Represented by | : | Shri. M.K. Patil, A.P.P. |
| Accused | : | 1) Govind Sandipan Udare, Age: 27 Years, Occ.: Driver, R/o. Soundana, Tq. Ambajogai, Dist. Beed 2) Jabaj Maheboob Shaikh, Age: 22 Years, Occ.: Business, R/o. Near Siddheshwar Temple, Ekminar Chowk, Tq. & Dist. Latur 3) Santosh Vishwanath Phad, Age: 38 Years, Occ.: Agri., R/o. Soundana, Tq. Ambajogai, Dist. Beed |
| Represented by | : | Shri. R.D.Kamble, Advocate |

SESSIONS CASE No.34/2025

Part B

(Para 44 (ii) of Chapter VI of Criminal Manual)

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|----------------------------|---|------------|
| Date of Offence | : | 23.05.2025 |
| Date of FIR | : | 23.05.2025 |
| Date of Charge-sheet | : | 16.07.2025 |
| Date of Framing of Charges | : | 28.01.2026 |

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|------------------------------------|---|------------|
| Date of commencement of evidence | : | 08.04.2026 |
| Date on which judgment is reserved | : | 20.05.2026 |
| Date of the Judgment | : | 20.05.2026 |
| Date of Sentencing Order, if any | : | --- |

Accused Details

| Rank of the accused | Name of the Accused | Date of Arrest/appearance | Date of Release on Bail | Offences charged with | Whether acquitted or convicted | Sentence Imposed | Period of Detention Undergone during Trial for purpose of Sec.468 B.N.S.S. |
|---------------------|-------------------------|---------------------------|-------------------------|-----------------------|--------------------------------|------------------|--|
| 1 | Govind Sandipan Udare | 16.10.2025 | 16.10.2025 | S.123, 275 of BNS | Acquitted | -- | -- |
| 2 | Jabaj Maheboob Shaikh | 16.10.2025 | 16.10.2025 | --do-- | Acquitted | -- | -- |
| 3 | Santosh Vishwanath Phad | 16.10.2025 | 16.10.2025 | --do-- | Acquitted | -- | -- |

LIST OF WITNESSES:**A) Prosecution:-**

| Rank | Name | Nature of Evidence |
|------|------------------------------|-----------------------|
| PW-1 | Bhausahab Babasaheb Khandare | Investigation Officer |

List of Prosecution/Exhibits/Articles:

| Sr. No. | Exhibit Number | Description |
|---------|----------------|--------------------------|
| 1 | 17 | Spot Panchnama |
| 2 | 18 | First Information Report |
| 3 | 29 | Evidence close pursis. |

J U D G M E N T
(Delivered on 20.05.2026)

Accused No.1 to 3 are charged and tried for the offence punishable under Sections 123, 275 of Bharatiya Nyaya Sanhita, 2023.

Brief Facts of the case are as under:-

2) According to the allegation set forth in first information report, the informant API Bhausahab Babasaheb Khandare received secret information in regard to the transportation of contraband Gutkha for sale. Accordingly, he along with other police staff went towards Dahifale furniture at Kingaon. They found on Bolero pick-up MH-44/U-3864, one person was present, accused Shahbaz Shaikh claiming to be cleaner of said vehicle. Accused Govind Udare was claimed to be owner of said vehicle, who fled from the spot. They found in possession of contraband Gutkha kept in the vehicle. The Gutkha was owned by accused No.3 Santosh Phad who has taken house on rent to keep contraband Gutkha. They found in possession of contraband Gutkha and tobacco worth Rs.11,72,780/-. The same is came to be seized with vehicle Mahindra Bolero Pick up.

3) Informant placed report. On the strength of report registered crime bearing No.108/2025 for the offence punishable under sections 223, 274, 275, 123 of B.N.S. Investigation was set in motion. After completion of investigation, charge-sheet is came to be filed.

4) The charge (Exh.10) is framed and explained to the accused No.1 to 3 to which they pleaded not guilty and claimed to be tried. The defence of the accused No.1 to 3 is of denial.

5) The following points arise for my determination and I have recorded findings thereon for the reasons referred below :

| | <u>POINTS</u> | | <u>FINDINGS</u> |
|----|--|--|------------------------|
| 1) | Whether prosecution proves that, accused | | |

| | | | |
|----|---|---|-----|
| | No.1 & 2 found in possession of stupefying substance, i.e. Gutkha and Tobacco, the said substance which was owned by accused No.3. They possessed it for the purpose of sale to public at large with intent to cause hurt to public which is injurious to the health of human being, thereby accused aware that it will cause hurt to human being ? | : | No. |
| 2) | Whether prosecution proves that, accused No.3 with the aid of accused No.1 and 2 intending to sale and offered to sale adulterous stupefying substance, i.e. Gutkha/noxious substance ? | : | No. |

:REASONS:

POINT NO.1 & 2 :-

6) PW-1 informant Bhausahab Khandare testified that, on receiving secret information at Kingaon Police Station on 23.05.2025. Informant along with police team went behind the Dahiphale Furniture at Kingaon. They found Mahindra Bolero Pick up in the possession of cleaner Accused Shahabaz Shaikh. The driver of the vehicle Govind Udare was fled away. The material kept in vehicle was owned by accused Santosh Phad. Informant taken search of vehicle in the presence of two panchas. He found Vimal Tobacco 4575 pocket, Vimal Pan Masala 5608 pocket, M.R.D. Pan Masala 26 Box, M scented Tobacco 30 box, Baba Navratan 300 box, Rajnigandha Pan Masala 10 box, Ranjnigandha scented Pan Masala 585 box were came to be seized with vehicle. He drawn He prepared seizure panchanama in the presence of panchas. He proved seizure panchanama (Exh.17). He proved the contents of First Information Report (Exh.18).

7) Learned A.P.P. for the State submits that, prosecution has proved the seizure of contraband Gutkha and Tobacco from the possession of accused No.1 & 2 which was owned by accused No.3 Santosh Phad. The oral evidence led by prosecution is supported by documentary evidence i.e. first information report and seizure panchnama. So, accused be convicted.

8) Learned advocate for the accused submits that, there is no iota of evidence to prove seizure of articles as contraband Gutkha. Accused No.1 to 3 are falsely implicated in the crime. So, claimed for acquittal of accused.

9) On perusal of the record even if we taken above referred evidence as it is, face value and accepted in its entirety then it is not sufficient to prove seized food articles are contraband articles. For that purpose it is mandatory for the prosecution to prove that seized food articles are stupefying substance which is unsafe to consume by way of Forensic Laboratory Report. Same is not forthcoming on record. Further collection and drawing of sample is important factor which is to be governed by the provision of Food Safety and Standard Act, 2006 which are enumerated under Section 76 of the Act. The mandates given in it is not applied by the informant, while taking samples, notice in writing should be given to the accused and to obtain their signatures while labeling the samples. The samples were required divided into four parts and distributed as required by the mandate said section. The said compliance is not forthcoming in the present case.

10) Thus, prosecution failed to prove that, the alleged

food articles seized from the possession of the accused No.1 & 2 which was owned by accused No.3 are unsafe to consume and contains extraneous matter. Consequently, the ingredients of offence punishable under Sections 123 and 275 of the Bharatiya Nyaya Sanhita, 2023 are not proved beyond reasonable doubt. Consequently, I answer point No.1 and 2 in negative and proceed to pass following order :

ORDER

| | |
|----|---|
| 1) | Accused No.1) Govind Sandipan Udare, accused No.2) Jabaj Maheboob Shaikh and accused No.3) Santosh Vishwanath Phad are acquitted for the offence punishable under Sections 123 & 275 of the Bhartiya Nyaya Sanhita, 2023. |
| 2) | Personal bond of accused No.1 to 3 stand cancelled and surety of them are discharged. |
| 3) | Seized contraband Gutkha, Pan Masala and Tobacco be disposed of strictly in accordance with rules. Seized Muddemal vehicle Mahindra Bolero Pick up bearing No.MH 44 U 3864 is released on interim custody to its owner, it became absolute after expiry of appeal period. |
| 4) | The accused No.1 to 3 to execute personal bond in the sum of Rs.25,000/- (Rupees Twenty Five Thousand only) each in compliance to Section 481 of Bhartiya Nagrik Suraksha Sanhita, 2023 to require them to appear before next appellate court. |

(S.U. Wadgaonkar)

Date : 20.05.2026

Additional Sessions Judge, Ahmedpur