

MHPU330005702025



Presented on : 10/05/2022

Registered on : 12/05/2022

Decided on : 08/07/2026

Duration : Y. M. D.

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IN THE COURT OF ADDITIONAL SESSIONS JUDGE,
AT JUNNAR, PUNE
(Presided Over by S.B. Shelar)

SESSION CASE NO.228/2025

Exh. No.

Part 'A'

	Alephata Police Station, Pune FIR No. 382/2020 Under Sections 328, 272, 273 and 336 of Indian Penal Code and section 26(2)(i), 26(2)(iv) and section 59 of Food Safety and Standards Act.
Prosecution	THE STATE OF MAHARASHTRA (Through Alephata Police Station)
Represented by	Learned APP Shri. G.K.Khode
Accused	Ganesh alias Babaji Ramdas Waje Age: 36 years Occ : Agriculturist R/at- Pimpalwandi(Lende-Waje Mala), Tal. Junnar, Dist. Pune
Represented by	Advocate Shri. P. R. Vairal for the accused.

Part 'B'

Date of Offence	17.10.2020
Date of FIR	17.10.2020
Date of Charge sheet	12.05.2022

Date of Framing of Charges	14.05.2024
Date of commencement of evidence	29.04.2026
Date on which judgment is reserved	08.07.2026
Date of the Judgment	08.07.2026
Date of the Sentencing Order, if any	---

Accused Details

Ran k of the Acc use d	Name of accused	Date of Arrest	Date of Release on Bail	Offences charged with under section	Whether acquitted or convicted	Sentence Imposed	Period of Detention Undergone during Trial for purpose of Section 428, Cr. P. C.
1	Ganesh Ramdas Waje	17.10.20 20	15.03.2 021	328, 272, 273 and 336 of Indian Penal Code and section 26(2)(i), 26(2)(iv) and 59 of Food Safety and Standards Act.	Acquitted	--	--

B. Defence witnesses, if any:

	RANK	NAME	NATURE OF EVIDENCE (EYE WITNESS, POLICE WITNESS, EXPERT WITNESS, MEDICAL WITNESS, PANCH WITNESS, OTHER WITNESS)
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C. Court witnesses, if any:

RANK	NAME	NATURE OF EVIDENCE (EYE WITNESS, POLICE WITNESS, EXPERT WITNESS, MEDICAL WITNESS, PANCH WITNESS, OTHER WITNESS)
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LIST OF PROSECUTION/DEFENCE/COURT EXHIBITS

A. Prosecution :

Sr.No.	Exhibit Number	Description
1	P-9/PW-1	Report
2	P-10/PW-1	Printed FIR
3	P-13/PW-2	Seizure anchnama

B. Defence :

Sr.No.	Exhibit Number	Description
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C. Court Exhibits :

Sr.No.	Exhibit Number	Description
1	14	Statement of Accused u/sec. 313 of Criminal Procedure Code.

C. Material objects :

Sr.No.	Exhibit Number	Description
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J U D G M E N T

(Delivered on 8th day of July, 2026)

 The accused stands charged with offences punishable under sections 328, 272, 273 and 336 of Indian Penal Code and section 26(2)(i), 26(2)(iv) and 59 of Food Safety and Standards Act.

2] The case of the prosecution in short is that, 16/10/2020 at around 11.15 p.m., SHO Shri. T.Y. Mujawar informed the informant and his colleagues that he has received confidential information about accused making storage for illegally selling prohibited gutkha and pan

masala. Accordingly, they effected station diary entry and prepared for raid at said godown of the accused. On 17/10/2020 at around 12.15 a.m. the informant and his team raided the house of the accused and found prohibited gutkha and pan masala worth of Rs.13,10,658/-. Thereafter, they got information that accused had an another storage of prohibited gutkha and pan masala at Vadgaon Anand village in a tin shed near Lokhande building. Accordingly, they headed towards said spot and found prohibited gutkha and scented tobacco worth of Rs. 3,12,000/- from there. Therefore, the informant had lodged report against the accused.

3] After registration of crime the same was investigated by S. A. Daule. He recorded statements of the witnesses, drew spot panchnama, seized the muddemal. After collecting sufficient material, he filed charge-sheet. The case being exclusively triable by this Court, the Ld. Magistrate committed it to this Court vide order dated 29/04/2022.

4] My Ld. Predecessor framed charges against the accused vide Exh. 04 on 14/05/2024. The accused pleaded not guilty and claimed to be tired. From the tenor of the cross examination and the answers given by the accused in his statement recorded u/s 313 of the Cr.PC. the defence of the accused appears to be that of total denial.

5] Heard the learned APP for the State and learned Advocate Shri. P. R. Vairal for the accused. Perused the entire record. The oral as well as documentary evidence produced by the prosecution is shown in Part 'C' appended to the judgment, as directed in para 44(iii) Chapter VI of the Criminal Manual.

6] The learned APP has filed written arguments below Exh.15. As per the prosecution, PW-1 informant has deposed in detail about the raid and seizure of gutkha, pan masala and prohibited tobacco. He has also deposed about the panchnamas prepared in his presence. The said witness has also identified the accused. Further, PW-2 panch witness Amit Ghogare has deposed about the seizure of supari and pan masala from the godown of the accused. Therefore, according to the prosecution, it has established direct evidence of involvement of the accused in the present case and connected him with the seizure effected from the godown. Hence, on overall reading of the evidence, the prosecution has duly proved the charges against the accused and he be convicted.

7] The learned Advocate for the accused has submitted that the evidence is not at all cogent and reliable. The prosecution has failed to prove any of the charges against the accused. The seizure of prohibited tobacco was

also not connected with the accused. The entire case is foisted on the accused. Therefore, the accused be acquitted.

8] On considering the rival submissions, the following points arise for my consideration.

Sr. No	Points	Findings
1.	Does the prosecution prove that the accused stored stupefying, intoxicating substances with intent to administer the same or knowing it be likely that he will thereby cause hurt?	No.
2.	Does the prosecution prove that the accused adulterated the gutkha, pan masala packets so as to make them noxious as food with intention to sell the said articles as food or drink?	No.
3.	Does the prosecution prove that the accused had exhibited for sale pan masala and gutkha packets which had become noxious and were in a state unfit for food?	No.
4.	Does the prosecution prove that the accused contravened the provisions of section 26(2)(i) and 26(2)(iv)?	No.
5.	What order?	Accused is acquitted.

REASONS

AS TO POINT NOS. 1 TO 5:

9] All points for consideration are interrelated with each other, hence, they are taken together for discussion. It

is an admitted fact that there is no chemical analyst's report in the present case in respect of samples seized. The investigating officer was not examined by the prosecution as despite sufficient opportunities, he failed to remain present before this Court. This Court was constrained to close the evidence of the prosecution as for several dates, the investigating officer remained unavailable.

10] The evidence of PW-1 informant is to the effect that on 17/10/2020, as per confidential information received by their police station, the house of the accused was raided. In the said raid, police found gunny bags containing gutkha and pan masala. The accused further revealed another location at Vadgaon Anand village where 14 boxes of gutkha and tobacco were recovered. The said muddemal was seized in the presence of panchas and FIR came to be filed against the accused. In his cross-examination, the informant has admitted that details of the raid was not informed to the Food Inspector. He has further admitted that the pouches of the gutkha and tobacco were not opened and their labels were also not seen. He has further admitted that in his presence, the ownership documents of the said house and room were not verified.

11] The evidence of PW-2 Amit Ghogare (panch witness) shows that in his presence, gunny bags were seized from a godown. The said godown was situated at Pimpalwandi village. According to him, police had seized

10 to 15 gunny bags. The name of the person present there was Waje i.e. present accused. Thereafter, as per the disclosure by the accused, they had gone to another godown at Lokhande building. Police seized 7 to 8 gunny bags from the said godown. Thereafter, panchnama was prepared. He has admitted that the identification documents of the accused were not checked in his presence. He has admitted that he does not remember whether police had drawn any samples from the gunny bags. He has also admitted that the second panch witness did not sign the panchnama in his presence but signed it subsequently.

12] On comparing the evidence of PW-1 informant and PW-2 Amit Ghogare, it does not inspire confidence. The case of the prosecution, as per PW-1 informant is that they had searched the house of the accused, whereas as per PW-2 Amit Ghogare, it was godown. Further, as per PW-1 informant 14 boxes were seized from the second location at Lokhande building. However, as per PW-2 Amit Ghogare, from the second location i.e. godown, 7 to 8 gunny bags were seized. There is discrepancy in the evidence of PW-1 informant and PW-2 Amit Ghogare. This discrepancy is not only in respect of house and godown but also in the respect of quantity of tobacco seized from the spots. Under such circumstances, their evidence becomes doubtful and unreliable.

13] The prosecution has not examined other eye witnesses i.e. Shri. Mujawar and Shri. Anandgaonkar who were present at the spots. Their evidence could have led credence to the controverted evidence of PW-1 informant and PW-2 Amit Ghogare. Unfortunately, the prosecution has not examined the best available evidence for reasons best known to them. The non-examination of any other independent witnesses further dents the prosecution case. Finally, the non-examination of the investigating officer leaves many gaping holes in the prosecution story. Overall, the prosecution evidence appears patchy and inconsistent.

14] There is no complete chain of evidence establishing the ownership of the said places which were raided by the police and the accused. There is absolutely no document on record to even remotely suggest that the said place were in use and occupation of the accused. Under such circumstances, it is difficult to accept the prosecution case. Further, the non-drawing of the samples from any of the gunny bags and non-production of C.A. report demolishes the prosecution case.

15] In the present case, admittedly there is no evidence to show that the said prohibited articles were being administered, sold or displayed for sale by the accused. Further, since their contents have not been analyzed by the Chemical Analyst and the report of the same is not before

this Court, it cannot be assumed that the same were dangerous to health. In absence of any such material being brought by the prosecution the charges under section 328, 272, 273, 336 of Indian Penal Code would not stand. So also since, I have not accepted the evidence of the prosecution from the point of seizure and recovery of gutkha, pan masala and tobacco products from the accused, the charges under the Food Safety and Standards Act are not also proved against him. Further, to substantiate the charges under Food Safety and Standards Act, the non-production of C.A. report also does not aid the prosecution.

16] A conspectus of the above discussion is that the prosecution has failed to prove any charges against the accused and is entitled to be acquitted. The seized muddemal being prohibited articles will have to be destroyed after appeal period is over. Since no circumstances are brought before the Court warranting the grant of compensation, no order thereto is required to be passed. Hence, the following order-

ORDER

- (i) Accused Ganesh alias Babaji Ramdas Waje is hereby acquitted of the offences punishable under section 328, 272, 273, 336 of Indian Penal Code and sections 26(2)(i), 26(2)(iv) and 59 of the Food Safety and Standards Act vide section 235(1) of the Code of Criminal Procedure.
- (ii) His bail bond stands cancelled.

- (iii) The seized muddemal i.e. seized packets of gutkha, pan masala and tobacco being prohibited items be destroyed, if not already destroyed, after the appeal period is over by the concerned Police Station.
- (iv) Accused is directed to furnish P. R. bond of Rs.25,000/- in compliance with the provisions under section 437 (A) of the Code of Criminal Procedure and it shall remain in force for six months.
- (v) Copy of this judgment be sent to the District Magistrate/Collector in compliance of section 365 of the Code of Criminal Procedure.

(Dictated and pronounced in open Court.)

Junnar, Pune
Dt. :08/07/2026


(S. B. Shelar)
Additional Sessions Judge, Junnar
Tal. Junnar, Dist. Pune.

Part 'C'

LIST OF PROSECUTION / DEFENCE / COURT WITNESSES

A. Prosecution :

RANK	NAME	NATURE OF EVIDENCE (EYE WITNESS, POLICE WITNESS, EXPERT WITNESS, MEDICAL WITNESS, PANCH WITNESS, OTHER WITNESS)
PW-1	Mahesh Sahebrao Patare	Informant
PW-2	Amit Sunil Ghogare	Panch witness

Junnar, Pune
Dt. :08/07/2026


(S. B. Shelar)
Additional Sessions Judge, Junnar
Tal. Junnar, Dist. Pune.