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 3 4 22

IN THE COURT OF SESSIONS JUDGE, SOLAPUR Present : Manoj S. Sharma, Sessions Judge, Solapur Date of the Judgment – 20/04/2026 Sessions Case No. : 373/2022 Exh. No. : 39 CNR No.MHSO-0100-6679-2022	
FIR No.381/2020 of Mohol Police Station, Solapur District	
COMPLAINANT	: State of Maharashtra
REPRESENTED BY	: Shri. A.G.Kurdukar, Learned APP for the State
ACCUSED	: 1 Omraje Ashok Bhosale Age : 24 yrs., Occp. : Education, R/o. : Near Ghatule Petrol Pump, Mohol, Tal. Mohol, Dist. Solapur.
	: 2 Uttareshwar Balasaheb Kharat Age : 22 yrs., Occp. : Driver, R/o. : Abhilya Nagar, Mohol, Tal. Mohol, Dist. Solapur.
REPRESENTED BY	: Shri.V.T.Dhavane, Advocate for the accused Nos.1 & 2
Date of Offence	19/06/2020
Date of FIR	20/06/2020
Date of Charge-sheet	08/01/2021
Date of Framing of Charge	25/07/2023

Date of commencement of evidence	12/03/2026
Date on which judgment is reserved	20/04/2026
Date of the Judgment	20/04/2026
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 Cr.PC.
1	Omraje Ashok Bhosale	21 th June 2020	17 th July 2020	Secs. 328, 188, 272, 273, of the IPC	Acquitted	--	--
2	Uttarashwar Balasaheb Kharat	23 rd June 2020	17 th July 2020	Sec.59 of the Food Safety & Standards Act, Sec.3 of the Epidemic Diseases Act & Sec. 51(b) of the Disaster Management Act.	Acquitted	--	--

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

RANK	NAME	EXH	NATURE OF EVIDENCE (EYE WITNESS, POLICE WITNESS EXPERT WITNESS, MEDICAL WITNESS, PANCH WITNESS, OTHER WITNESS)
PW-1	Shivaji Ramdas Karande	24	Panch Witness
PW-2	Yogesh Rohidas Deshmukh	26	Food Safety Officer
PW-3	PHC Vijay Gopinath Mane	30	Police Witness
PW-4	PSI Bajrang Ranusing Badiwale	33	Investigating Officer

B. Defence Witnesses, if any :

RANK	NAME	EXH.	NATURE OF EVIDENCE (EYE WITNESS, POLICE WITNESS EXPERT WITNESS, MEDICAL WITNESS, PANCH WITNESS, OTHER WITNESS)
DW1	--	--	--

C. Court Witnesses, if any :

RANK	NAME	EXH.	NATURE OF EVIDENCE (EYE WITNESS, POLICE WITNESS EXPERT WITNESS, MEDICAL WITNESS, PANCH WITNESS, OTHER WITNESS)
CW1	--	--	--

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

Sr. No.	Exhibit Number	Description
1	25	Seizure Panchanama

2	27	Letter dated 20/06/2020 issued by the Food Safety Officer to the PI, Mohol Police Station, Mohol
3	28	FIR
4	29	Inspection Report
5	34	Arrest/Seizure Panchanama
6	38	Chemical Analysis Reports

B. Defence :

Sr. No.	Exhibit Number	Description
1	--	--

C. Court Exhibits

Sr. No.	Exhibit Number	Description
1	--	--

D. Material Objects :

Sr. No.	Exhibit Number	Description
1	--	--

J U D G M E N T(Delivered on 20th April, 2026)

1 Accused Nos.1 and 2 stood tried for the offences punishable under Sections 328, 188, 272, 273 of the Indian Penal Code, 1860 (herein after to be referred as the "IPC"), under Section 59 of the Food Safety & Standards Act (herein after to be referred as

the “FSS Act”), Section 3 of the Epidemic Diseases Act and Section 51(b) of the Disaster Management Act on the allegations of possessing and transporting prohibited Gutakha and prohibited articles, which were stupefying and intoxicating.

The case of the prosecution, in brief, is as under :

2 The Food Safety Officer (FSO) PW-2 Yogesh Deshmukh filed an FIR on 20/06/2020 and stated that, at about 10.00 a.m. on 20/06/2020, he received a phone call from PW-4 PSI B.R. Badiwale of Mohol Police Station that, at about 08.15 p.m. on 19/06/2020, one four wheeler vehicle was seized by them as it was found to have been transporting prohibited Gutkha. Therefore, at about 01.00 p.m. on that day, he attended the Police Station, Mohol, where the Police Inspector of Mohol Police Station conveyed to him by a letter that, at about 08.25 p.m. on 19/06/2020 PSI PW-4 B.R.Badiwale and police staff received a secrete information that, one four wheeler vehicle Tata Magic having registration No.MH-45/N-4490 will be passing by Mohol-Kurul Toll Naka via Kamati Road. Therefore to verify the same, PSI Badiwale and other police staff went near Mohol-Kurul Toll Naka and laid a trap there. Then, at about 08.25 p.m., they saw one four wheeler Tata Magic having registration No.MH-45/N-4490 coming towards the direction of Mohol rom the side of village Kamati. When they stopped said vehicle and asked the name and address of the driver, then, he stated his name as Uttareshwar Kharat i.e. accused No.2 and that of the person accompanying him as Omraje Bhosale i.e. accused No.1. When they enquired with the accused about the goods which were carried in the said four wheeler,

they gave evasive answered. But, on inspection, the police staff found 03 sacks lying on the back seat of said vehicle and after opening the same, they found it was having prohibited Vimal Gutakha and upon enquiry, the accused disclosed that, same has been brought from village Chadchan. Thereafter, they brought said vehicle and those persons in the Police Station and conveyed to the informant PW-2 FSO Yogesh Deshmukh about the same.

3 Accordingly, PW-2 FSO Yogesh Deshmukh inspected the stock, obtained the samples from the Gutkha and prepared inspection report (Exh.29) and seizure panchanama and then, lodged an FIR (Exh.28).

4 In view of said FIR (Exh.28), Crime No.381/2020 came to be registered with Mohol Police Station and investigation of the same was handed over to PW-4 PSI Barjang Badiwale, who after taking over investigation, perused all the documents, recorded statements of witnesses, arrested both the accused persons and when he found sufficient evidence, he filed charge sheet against both the accused persons.

5 The Charge came to be framed below Exh.5 against both the accused persons for aforesaid offences. They pleaded not guilty and claimed to be tried.

6 Upon commencing the evidence, the prosecution

examined four witnesses and closed the evidence by filing pursis Exh.35.

7 Thereafter, statements of both the accused persons came to be recorded as per Section 313 of the Criminal Procedure Code below Exhs.36 and 37 respectively. Their defence is of total denial and they claimed that, on the say of people, they have been falsely implicated in the present crime. None of the accused entered in the witness box nor examined any witness in their support.

8 Heard learned APP for the State and learned advocate for the accused Nos.1 and 2. Perused the record. In view of rival submissions, following points arise for consideration :

Sr. No.	POINTS	FINDINGS
1)	Do the prosecution prove that on 19/06/2020, at about 20.15 hrs., at Kurul Toll Naka, Mohol, Tal. Mohol, Dist.Solapur, accused Nos.1 and 2 found in possession of stupefying, intoxicating things i.e. 12 boxes of Vimal Pan Masala and 12 ... boxes of tobacco with intent to be taken by any person knowing it to be likely that they will thereby cause hurt to the public ?	No.
2)	Do the prosecution prove that, on the aforesaid date, time and place, accused Nos.1 and 2 possessed articles i.e. 12 boxes of Vimal Pan ... Masala and 12 boxes of Tobacco and thereby disobeyed an order promulgated by the Food Safety Commissioner, Maharashtra State, which caused danger to the human life or safety ?	No.

- 3) Do the prosecution prove that, on the aforesaid date, time and place, accused Nos.1 and 2, adulterated articles i.e. Vimal Pan Masala and Tobacco, so as to make it noxious as food, intending to sell it as food ? No.
- 4) Do the prosecution prove that, on the aforesaid date, time and place, accused Nos.1 and 2, sold or offered or exposed for sale, as food, the articles i.e. Vimal Pan Masala and Tobacco, ... which has been rendered or has become noxious, knowing or having reason to believe that the same is noxious as food ? No.
- 5) Do the prosecution prove that, on the aforesaid date, time and place, accused Nos.1 and 2, sold or stored or distributed or imported articles as food i.e. Vimal Pan Masala and Tobacco, for ... human consumption, which are unsafe ? No.
- 6) Do the prosecution prove that, on the aforesaid date, time and place, accused Nos.1 and 2, ... disobeyed the regulation or order made under the Epidemic Diseases Act ? No.
- 7) Do the prosecution prove that, on the aforesaid date, time and place, accused Nos.1 and 2, refused to comply with any direction given by or on behalf of the Central Government or the State Government or the National Executive ... Committee or the State Government Committee or the District Authority under the Disaster Management Act ? No.
- 8) What order ? ... As per final order

REASONS**As to Points No.1 to 7 :**

9 All the points are interlinked and based upon same set of evidence. Therefore, for the sake of convenience, they are considered together.

10 In so far as seizure of prohibited articles from the possession of accused persons is concerned, only one important witness has been examined by the prosecution i.e. PW-3 Police Naik Vijay Mane, who was then working in Mohol Police Station.

11 As per the version of PW-3 PN Vijay Mane, at about 06.00 p.m. on 19/06/2020, he was on duty and Police Inspector Kokane has called him and PW-4 PSI Badiwale and other staff in his cabin and informed them that, one four wheeler vehicle is transporting prohibited Gutakha and asked them apprehend said vehicle and seize the same. At that time, he also furnished particulars of said four wheeler to them. In view of such directions, he, PW-4 PSI Badiwale and other police staff went to Kurul Toll Naka and stood there laying a trap. Thereafter, they saw the vehicle of said description coming in their direction from village Kamati. Therefore, they stopped said vehicle and asked the driver to take the vehicle by the side. The time then was 08.25 p.m. They enquired driver of the said vehicle as to what is there in the vehicle, upon which, said driver told them that, it is having jawar and wheat and it belongs to one Bhosale. Therefore, they got more suspicious and inspected the vehicle and found that, there were 3 white colour sacks in the vehicle. Upon opening the

sacks, they found Vimal Gutkha and V-1 Tobacco in those sacks. Two persons were present in the said vehicle. Out of which, name of one person was Bhosale (i.e. accused No.1) and another person was Kharat (i.e. accused No.2). Thereafter, they brought both of the said persons and vehicle in the Police Station. Upon enquiry, accused persons told them that, they have brought said Gutkha from Chadchan for sale. Thereafter, they informed about the incident to PI Kokane, who, in turn, sent an e-mail to the Food Safety Department, but, the Food Safety Officer conveyed to them that, he is busy in some work and therefore, he will come on the next day. Thereafter, they made arrangements for protecting the vehicle and the goods and asked both the accused persons to go home and come back at 11.00 a.m. on the next day.

12 In his cross-examination, PW-3 PN Vijay Mane admitted that, before proceeding for raid, they did not take note about the same in the register at Police Station. He also admitted that, even on the day of his deposition, he is unable to tell the full names of both the accused persons. Apart from that, there is nothing in his cross-examination.

13 The other important witness is PW-2 Yogesh Deshmukh, who was working as Food Safety Officer at Solapur at the relevant time, who deposed that, at about 10.00 a.m. on 20/06/2020, PW-4 PSI Badiwale phoned him and conveyed him that, on 19/06/2020, at about 08.30 p.m., they have taken one vehicle and two persons in their custody, who were transporting prohibited Gutkha and

therefore, at about 01.00 p.m., along with two panch witnesses, he went to the Police Station. That time, police showed them the vehicle and a person, who told his name as Balu Kharat i.e. accused No.2. Then he made enquiry about the prohibited Gutkha from him and also inspected the said stock and found that, in the sack there were 3 boxes of Vimal Pan Masala worth Rs.72,000/- and 10 boxes of V-1 Scented Tobacco worth Rs.18,000/- total amounting to Rs.90,000/-. Thereafter, he obtained samples from the stock and seized the remaining stock and prepared a panchanama to that effect. Said panchanama is below Exh.25. Then, he handed over vehicle in the custody of the Police Station. He also proved the FIR lodged by him below Exh.28. He also prepared one inspection report, which is below Exh.29 and forwarded the samples so obtained for the chemical analysis and after receipt of the report regarding the same, he forwarded the same to the Police Station. Then, he sent a proposal to the Assistant Commissioner, Food and Drugs Administration Department for getting sanction to launch the prosecution, which he accordingly received and forwarded to the Mohol Police Station.

14 In his cross-examination, PW-2 FSO PW-2 Yogesh Deshmukh admitted that, when he went to the Police Station, Mohol, that time, none of the accused was present there. He also admitted that, for the first time, he received information about the incident at about 10.00 a.m. on 20/06/2020 and also that, before lodging of he FIR, he did not verify from any of the accused about the incident. He further gave a fatal admission that, it was the police, who showed

and told him that there are the accused persons from whom the prohibited articles were seized and due to the same, he lodged FIR against the accused persons. He also admitted that, after receipt of the report from the chemical analysis, it is necessary to give a copy of the same to the accused persons and to ask him whether he again wants to get the samples analyzed, but, he did not follow said procedure. He also admitted that, he personally did not file any prosecution against the accused persons. He denied that, he did not abide Sections 41 to 47 of the FSS Act.

15 There is another witness PW-1 Shivaji Karande, who is claimed to be a panch witness, as per whose version, on 20/06/2020, police has called him at Mohol Police Station to act as a panch and that time, PW-2 FSO Yogesh Deshmukh was present there. Also, there was a four wheeler bearing No.MH-45/N-4490 parked in the Police Station. In said vehicle, there were bags, in which, there was scented tobacco and Gutkha worth Rs.80,000/- to Rs.90,000/-. That time, PW-2 FSO Deshmukh obtained samples from those articles and handed over remaining stock to the police. That time, one person named Balasaheb Kharat i.e. accused No.2 was present there. Then a panchanama was drawn, which is below Exh.25.

16 In his cross-examination, PW-1 Shivaji Karande admitted that, he is serving as a part time teacher in Zilha Parishad School and on that day, there was no holiday in the school. Also he admitted that PW-2 FSO Yogesh Deshmukh did not issue any letter to him to call him to act as a panch.

17 Thus, this much is the evidence led on record by the prosecution to discharge the burden. Bare reading of evidence of above referred three witnesses points to several infirmities in the case of prosecution.

18 First of all, it is to be noted that, crime is also registered for the offence punishable under Section 328 of the Indian Penal Code and same is a non bailable and cognizable offence, of which, Mohol Police Station was in a position to take cognizance. However, soon after taking said prohibited Gutkha in possession, the Police Station did not register FIR against accused persons. In this regard, the admissions given by PW-2 FSO Deshmukh clearly show that, though the contraband articles were taken in custody at about 08.25 p.m. on 19/06/2020, information regarding the same was conveyed to him at about 10.00 a.m. on 20/06/2020 and he himself went to the Police Station at about 01.00 p.m. on that day. The prosecution is absolutely silent about the important fact as to why from 08.25 p.m. on 19/06/2020 till 10.00 a.m. on 20/06/2020, no information was given to PW-2 FSO Deshmukh by the concerned Police Station. It is also important to note that, even though cognizance and non bailable offence was committed, still, both the accused persons were let go home and were asked to come back on the next day, which makes it suspicious whether actually both the accused persons were taken into custody or not ? Also, after taking the vehicle and prohibited articles placed in the vehicle in custody, no panchanama to that effect was either drawn on the spot of incident or after

bringing the same in the Police Station. A silence on the part of prosecution regarding the same creates a serious doubt.

19 It is important to note that, at about 01.00 p.m. on 20/06/2020, PW-2 FSO Yogesh Deshmukh arrived in the Police Station and as per the admission given by him, it was the police, who informed him that these accused were arrested and by showing the stock to him it was informed that, it was the stock and after giving that information, he has an FIR, which clearly shows that, this witness was not having any personal information and only on the strength of the information supplied to him by the police, he has lodged an FIR and therefore, FIR (Exh.28) itself is hearsay regarding the incident as claimed by PW-3 PN Vijay Mane. It also shows that, as the stock was shown to him by the police, the same claimed to have been seized by him and in view of the information given by the police that, these are the accused persons, he is saying that, those persons are the accused persons.

20 The crucial period is between 08.25 p.m. on 19/06/2020 till 01.00 p.m. on next day. No witness is examined by the prosecution to show how the vehicle was brought in Police Station and how it was kept protected during that period. No evidence is led on record in this regard and therefore, that is a grey area, which casts a serious doubt on the entire claim so made by the prosecution.

21 Another important aspect is, as per the version of PW-3 PN Vijay Mane and PW-4 PSI Bajrang Badiwale, the

investigating officer was the head of the team, who went to conduct the raid. Thus, it is apparent that, PW-4 PSI Bajrang Badiwale, the investigating officer himself was a member of the raiding party. However, soon after registration of the crime, investigation of the crime was handed over to him.

22 In this respect, testimony of the investigating officer PW-4 PSI Badiwale do not reveals that, he was heading the raiding party. There is nothing in his evidence even to remotely show that, on 19/06/2020, along with the other police staff, he had been to Kurul Toll Naka and entire police police team was acting as per his directions. He simply deposed that, after taking over investigation, he conducted the investigation and there is no whisper in his evidence about the offence which taken place at about 08/25 p.m. on 19/06/2020. PW-3 PN Vijay Mane was merely a member of the raiding party and was acting as per the directions of the PW-4 PSI Badiwale.

23 Thus, the version of the witnesses contradicts each other and it makes it highly suspicious as to whether PW-4 PSI Badiwale was heading police team to conduct the raid. If at all, he was heading the police team for conducting the raid, then, handing over investigation of the crime to the same police officer is also highly questionable. It is not a case of prosecution that, on the particular day, no other police officer was available in the Police Station for conducting investigation of the crime. In fact, no explanation is tendered as to why a person, who was involved in the raid, was later

on entrusted with the investigation of the said crime. Certainly, it is an illegality which vitiates entire case of the prosecution.

24 Also, in the manner in which PW-2 FSO Yogesh Deshmukh lodged an FIR (Exh.28) and conducted further procedure shows that, without bothering himself about the express mandatory provisions of Sections 41 to 47 of the FSS Act, he dealt with the entire matter. In this regard, Sections 41 to 47 of the FSS Act, provides a thorough procedure for the search, seizure of prohibited articles and launching of prosecution after obtaining sanction from the competent authority. Section 42 of the FSS Act clearly provides that, after conducting search and seizure in conformity with the provisions of the FSS Act, at first, Food Safety Officer is required to obtain sanction from the competent authority and upon grant of sanction, he is required to launch the prosecution against accused persons. This section do not provide for launching of FIR by the Food Safety Officer.

25 However, in the case in hand, on one hand, though PW-2 FSO Deshmukh obtained sanction from the Assistant Commissioner of Food and Drugs Administration Department, he did not launch any prosecution, which is clear violation of the explicit provisions of the FSS Act and on the other hand, though he was not entitled to lodge any FIR with the Mohol Police Station, he lodged an FIR (Exh.28) specifically mentioning the relevant provisions of the IPC and FSS Act alleging that, articles contain stupefying and intoxicating substances and thereafter he forwarded the samples to the District

Health Laboratory, at Solapur for chemical analysis. Thus, it shows that, at the time of lodging an FIR, PW-2 FSO Deshmukh was not aware whether the seized articles were intoxicating or stupefying, which he came to know after the receipt of reports of chemical analysis. Thus, it is clear that, without having any knowledge that the seized articles were consisting stupefying intoxicating which are harmful and hazardous for human health, he lodged an FIR and that too, on the say of police.

26 Apart from that, there is nothing on record to suggest that, the accused have disobeyed the regulation or order made under the Epidemic Diseases Act. There is also nothing to infer that, the accused refused to comply with any direction given by or on behalf of the Central Government or the State Government or the National Executive Committee or the State Government Committee or the District Authority under the Disaster Management Act and thus, committed any offense under the said Act.

27 Thus, it is apparent that, on the facts and in law, on both the counts, there are serious infirmities in the case of prosecution. Also, the prosecution is silent about the person from whom accused persons claimed to have brought the prohibited articles. Nothing is there to show even any investigation is conducted in respect of the same. As such, when entire evidence is full of doubts, it can not be said that the prosecution is succeeded in discharging the burden. Therefore, Points No.1 to 7 are answered in the negative.

As to Point No.8 :

28 Since the prosecution has miserably failed to discharge the burden, both the accused are entitled to be acquitted. Hence, in answer to Point No.8, following order is passed.

ORDER

- 1 The accused Nos.1 and 2 are acquitted of the offence punishable under Sections 328, 188, 272, 273 of the Indian Penal Code, 1860, under Section 59 of the Food Safety & Standards Act, Section 3 of the Epidemic Diseases Act and Section 51(b) of the Disaster Management Act, vide Section 235(1) of the Code of Criminal Procedure Code.
- 2 Their bail bonds stands cancelled and sureties discharged.
- 3 The accused Nos.1 and 2 shall execute the bail bond of Rs.10,000/- (Rupees Ten Thousand) each with a surety of like amount to appear before the Appellate Court as and when the Court issued notice in respect of appeal or petition against the judgment vide Section 437-A of the Code of Criminal Procedure, 1973.
- 4
 - i) The seized muddemal article i.e. four wheeler of Tata Motors Company bearing registration No.MH-45/N-4490 is already returned to its claimant vide order passed below Exh.1 dated 28/07/2020 in Cri. Misc. Appln. No.208/2020. The custody of the same be retained with him.
 - ii) The seized muddemal article i.e. mobile hand set of Samsung Company be returned to its claimed, after due verification. If it remains unclaimed, it be sold in auction sale and sale proceeds thereof be credited to the Government.
 - iii) The seized muddemal article i.e. cash of Rs.10,000/- (20 currency notes of Rs.500/- each) seized vide seizure panchanama (Exh.34) be returned to the accused No.1

Omraje Ashok Bhosale.

- iv) Other muddemal articles, being worthless, be destroyed.
- v) The order as to muddemal articles shall come into force after the period of appeal is over.

Date : 20/04/2026

(**Manoj S. Sharma**)
Sessions Judge,
Solapur

CERTIFICATE

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

Name of Stenographer	:	Sou.Javalgekar M.C.
Court	:	Principal District & Sessions Judge, Solapur
Date	:	20/04/26
Judgment signed by the Presiding Officer on	:	20/04/26
Judgment uploaded on	:	20/04/26

