

MHRG150001892023 	Received on : 24.03.2023 Registered on : 24.03.2023 Decided on : 16.07.2026 Duration : YY/MM/DD 03 03 22
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Sessions Case No.26/2023.
CNR No.MHRG15-000189-2023.
Exh. No.28/A.

Part 'A'

IN THE COURT OF SESSION, AT MANGAON, DISTRICT: RAIGAD. Present : M. K. Patil, Additional Sessions Judge. (Date of Judgment : 16.07.2026) (Sessions Case No.26/2023)
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	(F.I.R. No.18/2022, under section 379 of I.P.C. and under section 21, 21(2) of Mines and Minerals (Development & Regulation) Act, 1957 – Mahad Taluka Police Station, Tal. Mahad, Dist. Raigad)
Prosecution	The State of Maharashtra Through Mahad Taluka Police Station, Tal. Mahad, Dist. Raigad.
Represented by	Ld. A.P.P. Mr. Y. A. Tendulkar, for State.
Accused	Anwar Husain Mohammad Sadik Duste, Age-57 years, R/o. Jui Budruk Mohalla, Tal. Mahad, Dist. Raigad.
Represented by	Ld. Adv. Shri. Zahir Sange.

Part “B”

Date of Offence	26.03.2022.
Date of F.I.R.	26.03.2022.
Date of Charge-sheet	24.03.2023.
Date of framing of Charge	22.09.2025.
Date of commencement of evidence	18.02.2026.
Date of which Judgment is reserved	03.07.2026.
Date of the Judgment	08.07.2026.
Date of the Sentencing Order, if any	Nil

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 purpose of Section 428, Cr.PC.
(1)	Anwar Husain Mohammad Sadik Duste	19.04. 2022	19.04. 2022	U/s.379 of IPC, and sec. 21(2) of Mines & Minerals (Development & Regulation) Act, 1957.	Acquitted	---	---

: J U D G M E N T :
(Delivered on 16.07.2026)

1) Accused has been prosecuted for offences punishable under section 379 of the Indian Penal Code 1860 (in short “I.P.C.”) and offence punishable under section 21 of the Mines and Minerals (Development and Regulation) Act, 1957 (in short “M.M.D.R. Act”).

Prosecution Case in brief is as under :

2) On 26.03.2022 informant alongwith other revenue officers by forming Mobile Raiding Team came within limits of village Mahad at around 12.30 a.m. At that time they received information that, one person is illegally excavating sand through boat within limits of village Jui Budruk and Oval. Hence, they reached there at around 03.00 a.m. and had seen that seven persons excavating sand by digging through Hand-Bucket (हातपाटी) and boat from Savitri river. The said people ran away after seeing said raiding team. However, out of them said team stopped one person and on inquiry they came to know his name as Anwar Sadiq Duste R/o. Jui Budruk Mohalla. Further he stated that, he excavating sand and the people who ran away are working for him. On inquiry about permission for excavation of sand, he told that he does not have any permission and also he did not register said boat with Maritime Board. Accordingly, informant recorded his statement. During said raid one metal-wooden boat and 1 brass sand found in his possession was seized by carrying out Panchanama (Exh.9). Thereafter, informant lodged report against accused person in respect of theft of sand under 379 of the I.P.C. and under section 21 & 22 of the the Mines and Minerals (Development and Regulation) Act, 1957 bearing Crime No.18/2022 at Mahad Taluka Police Station.

3) Investigation officer Police Constable Pravin Ambu Rathod (PW.6) visited spot situated on bank of Savitri river within limits of Kokare village alongwith two Government panch and carried out spot panchanama (Exh.14). Further he seized

boat and 1 brass sand in presence of panch witnesses. Police Constable Dhotre took four photographs (Article-A) on spot. Investigation officer also took muddemal receipt (Exh.23) of said muddemal. Further he arrested accused under arrest panchanama (Exh.24). He issued letter dated 13.06.2022 (Exh.25) to Tahsildar Mahad to get hand map of spot. During course of investigation, it was transpired to him that accused committed theft of sand from Savitri river and there is sufficient material to proceed against him. Hence, Officer-in-charge of Mahad Taluka Police station filed charge-sheet against accused for offences punishable under section 379 of I.P.C. and under section 21 of the Mines and Minerals (Development and Regulation) Act, 1957, before Ld. J.M.F.C., Mahad.

4) The offence u/s.21 of Mines and Minerals Act, is exclusively triable by the Sessions Court, hence Ld. J.M.F.C., Mahad has committed case under section 209 to this Court by complying with procedure under section 207 of Code of Criminal Procedure.

5) After hearing Ld. APP and Ld. Advocate for accused I framed Charges (Exh.3) for offences punishable under section 379 r/w. 34 of I.P.C. and under section 21(2) of the Mines and Minerals (Development and Regulation) Act, 1957 against the accused. The contents of charge was explained to the accused in his vernacular. Accused pleaded (Exh.4) not guilty and claimed to be tried. Prosecution filed evidence closing pursis (Exh.26).

The statement (Exh.27) of accused under section 313(1)(b) of Code of Criminal Procedure was recorded by explaining incriminating circumstances came in evidence against him. Accused denied those incriminating circumstances and claimed false implication.

6) Ld. A.P.P. Shri. Tendulkar submitted that, accused caught raid handed while illegally excavating sand. Further, the boat and sand was seized. There is muddemal receipt in respect of boat and sand. Prosecution witnesses deposed as per their statement and there is no omission or contradiction in their testimonies. Defence of accused that, he has been falsely implicated in the offence, however he has not given any reason for his false implication. Thus, prosecution proved case against accused beyond reasonable doubt, hence prayed for conviction of accused.

7) Ld. Advocate Shri. Jahir Sange argued for accused. It is submitted that, revenue officers are required to maintain movement register in their office to keep record in respect of their movement from the office. However, in this case no such movement register was filed on record, which raise doubt about alleged raid. The seized muddemal is not before the Court. This accused is not owner of alleged seized boat. Further, no articles required for excavation of sand were found on the alleged spot. Further submitted that, informant Talathi was not authorized to lodge report under Mines and Minerals Act and only authorized

person from Central Government can lodge report. All these infirmities in the prosecution case create doubt about case. Thus, prosecution failed to prove beyond reasonable doubt charges against accused. Hence, prayed for acquittal of accused.

8) After considering evidence on record and hearing rival contention of both the sides, following points arise for determination and my findings thereon are as under;

Sr. No.	POINTS	FINDINGS
1.	Does the prosecution prove that on or about 26.03.2022, at around 03.00 hrs., within the limits of village Jui, on the bank of river Savitri, Tal. Mahad, Dist. Raigad, accused in furtherance of common intention with unknown six other accused, intending to take dishonestly a certain movable property, namely sand by means of boat, out of the possession of State or Central Government without their consent and moved it in order to such taking and thereby committed an offence punishable under Section 379 r/w. 34 of Indian Penal Code ?	In the Negative.
2.	Does the prosecution proved that on aforesaid date, time and place during the course of same incident accused in furtherance of common intention with unknown six other accused, extracted the minerals i.e. one brass sand, otherwise than in accordance with the provisions of	In the Negative.

The Mines & Minerals (Development and Regulation) Act, 1957 and thereby committed offence punishable u/s.21 and **Section 21(2)** of the Mines & Minerals (Development and Regulation) Act, 1957 ?

3. What order?

As per final
Order.

REASONS FOR THE FINDINGS

9) Prosecution in order to prove charges against the accused examined total six witnesses. Informant Rushikesh Mahadev Bhosale (P.W.1), spot panch Ajit Bankat Dhabekar (P.W.2), Tahsildar Pradip Manohar Kudal (P.W.3), clerk of Tahsildar office Pramod Sahebrao Malave (P.W.4), Assistant in Tahsil Office Sunil Pralhad Shelke (P.W.5) and investigation officer Police Head Constable Pravin Ambu Rathod (P.W.6).

AS TO POINT NO.1 AND 2:

10) To prove charge of theft of sand, Prosecution must prove that this accused in furtherance of common intention with unknown 06 persons intending to take dishonestly sand out of possession of State Government without consent.

CONTENTION OF PROSECUTION WITNESSES :

11) It has come in the evidence of informant Rushikesh Mahadev Bhosale (PW.1) that on reliable information, he alongwith other Revenue Officers went on the island of Jui Budruk in Savitri river at around 3.00 a.m. on 26.03.2022. Further his team found accused alongwith 06 unknown persons excavating sand from Savitri river, through hand-bucket and boat. After seeing them, 06 unknown persons ran away, however they stopped accused and on inquiry, they came to know his name as Anwar Duste and he was excavating sand without any permission. Hence, they carried out seizure panchanama of metal-wooden boat and 01 brass sand.

12) Spot panch Ajit Bankat Dhabekar (PW.2) deposed that he was called for spot panchanama by police on 27.03.2022 at Jui island in Savitri river, where spot shown by informant and police seized one metal-wooden boat alongwith 01 brass sand. Accordingly, panchanama (Exh.14) was carried out.

13) It has come in the evidence of Mahad Tahsildar Shri. Pradip Manohar Kudal (PW.3), Avval Karkun of Mahad Tahsil office Shri. Pramod Sahebrao Malve (PW.4) and Revenue Assistant in Mahad Tahsil office Shri. Sunil Pralhad Shelke (PW.5) that they were members of Raiding Team and carried out raid at Jui island and found accused excavating sand alongwith other 06 unknown persons, through hand-bucket from Savitri river. The said witnesses corroborated testimony of informant.

14) Investigating Officer Police Head Constable Pravin Ambu Rathod (PW.6) deposed carrying out spot panchanama on Jui island, seizure of metal-wooden boat and 01 brass sand. Further, deposed that he recorded statements of witnesses as per their say and in the course of investigation it was transpired that accused excavating sand of Savitri river without permission.

ALL WITNESSES ARE FROM REVENUE DEPARTMENT:

15) It appears that prosecution has examined witnesses who are members of alleged raiding team, the panch witness is also from Revenue Department. Village Jui admittedly located nearby alleged spot, where prosecution could get any independent witness, even though prosecution has not examined any witness from said village. The case of prosecution based on raid and seizure panchanama. However, alleged raiding team has not took with them any independent witness prior to conducting raid. It raise doubt about factum of raid. The presence of independent witness acts as safeguard to ensure police/raiding team did not fabricate the scene or introduce illicit items on their own. Presence of independent witness also assures linking of accused with the offence. As prosecution not examined any independent witness to substantiate factum of raid, it creates doubt about whole prosecution case and involvement of accused in the crime.

NON-RECOVERY OF INSTRUMENTS REQUIRED FOR EXCAVATION OF SAND:

16) Admittedly, during alleged raid, the raiding team did not find instruments required for excavation of sand, such as spade, bucket etc. Further, though case of prosecution that accused through hand-bucket excavating sand, no such hand-bucket has been found or seized on alleged spot. The said lacuna in the prosecution case is fatal to prosecution.

MOVEMENT REGISTER NOT MAINTAINED:

17) Prosecution witnesses (P.W.2), (P.W.3), and (P.W.5) admitted that it is required to maintain Movement Register in Revenue Office for recording timing of their movement from office and arrival in the office. However, aforesaid witnesses admitted that they have not maintained Movement Register and also not taken entry about alleged raid in it. It also creates doubt about alleged raid conducted by said raiding team.

OWNERSHIP OF BOAT NOT PROVED:

18) Prosecution failed to prove ownership of boat allegedly found on spot. Thereby failed to link accused with the present offence. Prosecution has not given any documentary evidence how accused concerned said boat. Thus, said lacuna in the prosecution case failed to link accused with the alleged offence.

INFORMANT ADMITTED DARKNESS AT THE TIME OF RAID:

19) Informant specifically admitted during cross-examination that there was darkness at the time of alleged raid and he could not see “who did what”. The said admission falsify prosecution case that accused found excavating sand.

NO REPORT IN RESPECT OF ALLEGED RAID:

20) Pradip Manohar Kudal (P.W.3) admitted it is required to submit report to Tahsildar Office in respect of work carried out by them. However, he further admitted that no such report in respect of alleged raid conducted at Jui Island, was submitted to Tahsildar office. It also creates doubt about conducting raid by prosecution witnesses and caught hold accused while excavating sand.

NON-FORMING RAIDING TEAM BY ORDER OF TAHSILDAR:

21) Informant admitted alleged raiding team was not formed by Order of Tahildar. He further admitted that he has to work as per written Order and there is no Order of Tahsildar in respect of Mobile Raiding Team. It damaged whole prosecution case as regards formation of raiding team and conducting raid.

INFORMANT NOT AUTHORIZED TO TAKE ACTION UNDER M.M.D.R. ACT:

22) Ld. Advocate for accused submitted that only Central Government employee or person authorized by them is entitled to take action in respect of illegal excavation of sand, however prosecution has not produced such authority. Hence, whole action of informant is illegal.

23) Section 22 of M.M.D.R.Act provides that no Court shall take cognizance of any offence punishable under this Act or any rules made thereunder, except upon complaint in writing made by a person authorized in his behalf by Central or State Government or the State Government. However, section 26 of M.M.D.R.Act provides for delegations of powers, under which Central Government or State Government may by Notification in the official Gazette direct any power exercisable by it to be exercised by authority or person subordinate to it. The Collector, Raigad had issued Notification dated 10.11.2016 thereby authorized Revenue Officers in Raigad district to take action against illegal excavation of minor minerals. Informant is admittedly Revenue Officer, within Raigad District. Thus, no substance in the submission of Ld. Advocate for accused.

24) Over all, prosecution failed to bring guilt to the home of accused beyond reasonable doubt. The non-seizure of instruments required for excavation of sand, non-proving ownership of boat, non-examination of independent witnesses, not carrying independent panch witnesses at the time of alleged raid, not maintained Movement Register about raid and

admission that due to darkness informant could not see “who doing what?” All these things raised reasonable doubts about conduct of raid and involvement of accused in the alleged excavation of sand. Hence, I answer point no. 1 and 2 in the negative.

AS TO POINT NO.3:

25) Hence, accused entitled to be acquitted. The muddemal property alleged 01 brass be confiscated to State Government and alleged metal-wooden boat did not claim by anybody till today. The said boat hold commercial value it is necessary to dispose of it through public auction sale to higher bidder and entire sale proceeds to be deposited in State Treasury, after appeal period is over. The existing bail bond of the accused be cancelled and his surety be discharged. Accused is directed to comply with the provisions of section 437-A of Cr.P.C. by executing bonds of Rs.25,000/- with one surety in the like amount to appear before higher court in case appeal is preferred by Prosecution against this Judgment. Hence, I proceed to pass the following order :

: O R D E R :

- (1) Accused **Anwar Husain Mohammad Sadik Duste** is hereby acquitted under section 235(1) of the Code of Criminal Procedure, for the offence punishable under section 379

r/w. section 34 of Indian Penal Code and under section 21 Mines and Minerals (Development and Regulation) Act, 1957.

- (2) The existing Bail bonds of accused stand cancelled and his surety is discharged.
- (3) As per section 437-A of Code of Criminal Procedure accused shall execute Personal Bond of Rs.25,000/- with one surety of like amount to appear before the higher Court in case appeal is prefer by State against this Judgment.
- (4) The muddemal property - alleged 01 brass sand be confiscated to State Government and the metal-wooden boat be disposed of through public auction sale to higher bidder and entire sale proceeds to be deposited in State Treasury, after appeal period is over.
- (5) The Judgment be intimated to the District Magistrate as per provision of section 365 of Cr.P.C.

(Dictated and pronounced in open Court)

Sd/-

Mangaon.
Date: 16.07.2026.

(M. K. Patil)
Additional Sessions Judge,
Mangaon, Dist. Raigad

ANNEXURE

[As per the Directions issued by the Hon'ble Supreme Court, in the case of Manojbhai Jethabhai Parmar (Rohit) Vs. State of Gujarat (In Criminal Appeal No(s). 2973 of 2323, Judgment dated 15.12.2025]

Chart for Witnesses Examined

Prosecution Witness No.	Name of Witness	Description
1	Rushikesh Mahadev Bhosle (Exh.8)	Informant
2	Ajit Bankat Dhabekar (Exh.13)	Panch witness
3	Pradip Manohar Kudal (Exh.16)	Eye-witness
4	Pramod Sahebrao Malave (Exh.18)	Eye-witness
5	Sunil Pralhad Shelke (Exh.19)	Eye-witness
6	Pravin Ambu Rathod (Exh.21)	Investigating Officer

Chart for Exhibited Documents

Exhibit No.	Description of the Exhibit	Proved by/ Attested by
9	Panchanama	P.W.1
10	F.I.R.	P.W.1
11	Printed F.I.R.	P.W.1
14	Spot panchanama	P.W.2
22	Letter dated 27.03.2022	P.W.6
23	Muddemal receipt	P.W.6
24	Arrest Panchanama	P.W.6
25	Letter dated 13.06.2022	P.W.6

Chart for Material Objects /Muddemal

Material Object No.	Description of the Exhibit	Proved by/ Attested by
Article-A	04 Photographs collectively	PW.2

Chart of Court Exhibits

Sr. No.	Exhibit Number	Description
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Sd/-

Mangaon.
Date: 16.07.2026

(M. K. Patil)
Additional Sessions Judge,
Mangaon, Dist. Raigad.