

**HIGH COURT OF TRIPURA
AGARTALA**

Crl. Petn. No.18 of 2025

Sri Suresh Choudhury, Son of Sri Surendra Choudhury, Residence of Uttar Kalamchawra, PS- Kalamchawra, District- Sepahijala, Tripura

.....Petitioner(s);

Versus

The State of Tripura

.....Respondent(s).

For Petitioner(s) : Mr. Bibhal Nandi Majumder, Sr. Advocate,
Mr. Elembrok Debbarma, Advocate.

For Respondent(s) : Mr. Raju Datta, Public Prosecutor.

HON'BLE THE CHIEF JUSTICE MR. APARESH KUMAR SINGH

Order

07/05/2025

Heard Mr. Bibhal Nandi Majumder, learned senior counsel assisted by Mr. Elembrok Debbarma, learned counsel for the petitioner and Mr. Raju Datta, learned Public Prosecutor for the respondent-State.

2. The petition for discharge under Section 227 of the Code of Criminal Procedure, 1973 [‘Cr.P.C’, *for short*] filed on 04.03.2025; almost two years after framing of the charge against him on 31.07.2023, has been rejected by the impugned order dated 07.03.2025 passed in SPL (NDPS) 110 of 2019 by the learned Special Judge, North Tripura, Dharmanagar also taking note that eighteen witnesses have been examined and the case is pending for examination of remaining four witnesses. The learned Trial Court rejected the application with a cost of Rs.5,000/-. Being aggrieved, petitioner has approached this Court.

3. Mr. Bibhal Nandi Majumder, learned senior counsel for the petitioner, has referred to the petition for discharge enclosed to the supplementary affidavit at Annexure-8. He submits that the investigating

agency, instead of proceeding against the real owner of the offending vehicle, has implicated the present petitioner as accused on the basis of a perfunctory investigation though the ownership of the offending vehicle was not transferred in his name in the manner prescribed under the Motor Vehicles Act, 1988 and the rules. It still stands in the name of the original owner. Petitioner had also made a prayer to proceed against Sri Pradyut De Sarkar, the registered owner of the vehicle which has also been rejected with a cost of Rs.5,000/- which is wholly untenable in a criminal proceeding. Petitioner has not been making multiple applications like in the case of ***K. Ravi v. State of Tamil Nadu and Another*** reported in ***2024 SCC OnLine SC 2283*** relied upon by the learned Trial Court for imposing cost.

4. Mr. Raju Datta, learned Public Prosecutor for the respondent-State, has objected to the prayer. He submits that after almost two years of framing of the charge, a petition for discharge cannot be entertained at the behest of the accused petitioner. He has relied upon a decision of the Apex Court rendered in the case of ***Ratilal Bhanji Mithani v. State of Maharashtra and Others*** reported in ***(1979) 2 SCC 179*** at paragraphs 28 to 30. Therefore, the impugned order does not require any interference. He however also submits that the petition dated 04.03.2025 could not be treated as an application under Section 319 of the Cr.P.C to proceed against a person who has not been named in the FIR or chargesheeted.

5. I have considered the submission of learned counsel for the parties and taken note of the relevant materials placed from record and also gone through the impugned order.

It is trite law that once charges have been framed, the learned Court has to proceed with the trial. The clock cannot be turned back at the behest of an accused seeking discharge after two years after framing of the charge. Such a course would be illegal as has been held in the case of **Ratilal Bhanji Mithani** (supra)¹. Therefore, the learned Trial Court was right in rejecting the prayer for discharge on behalf of the petitioner. However, there was no justifiable reason to impose cost upon the petitioner. It is not a case where the petitioner has been indulging in repeated frivolous applications and thereby wasting the Court's time. Therefore, the cost of Rs.5,000/- imposed in the impugned order is waived.

6. Learned senior counsel for the petitioner submits that since the trial is underway, liberty may be granted to the petitioner to file an application under Section 319 of the Cr.P.C to arraign the real owner of the vehicle in whose name the vehicle still being shown as registered.

7. In the opinion of this Court, no liberty is required to invoke Section 319 of the Cr.P.C. As such, it is open for the petitioner to make such an application if permissible in law before the learned Trial Court.

8. The instant criminal petition stands disposed of with the aforesaid observations and directions. Pending application(s), if any, shall also stand disposed of.

(APARESH KUMAR SINGH), CJ

Pijush/

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¹ (1979) 2 SCC 179