

Anand

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION**

WRIT PETITION NO.3685 OF 2016

Sandeep Haridwar Bhegade .Petitioner

Vs.

The State of Maharashtra .Respondent

Mr.S.V.Kotwal i/b. Mr.M.S.Mohite, Advocate, for
the Petitioner

Mr.S.R.Agarkar, APP, for the Respondent – State

CORAM : REVATI MOHITE DERE, J.

DATE : 18.11.2016

P.C.

. Heard learned counsel for the
Petitioner.

2. By this Petition, the Petitioner seeks
setting aside of the order dated 30.09.2016
passed by the learned Asstt. Sessions Judge,
Pune, by which charge came to be framed in
S.C.No.667 of 2016 as against the Petitioner.

3. Learned counsel for the Petitioner

submits that the learned Ad-hoc District & Asstt. Sessions Judge, Pune was pleased to frame charge against the Petitioner on the very first date, when the matter was placed before the learned Assistant Sessions Judge, Pune, thus depriving the Petitioner of an opportunity to avail of his statutory right to claim discharge from the case, under Section 227 of the Code of Criminal Procedure and without giving an opportunity to the Petitioner to engage an Advocate. He, therefore, prays that the order framing charge be set aside and the matter be remitted back to the trial Court for hearing the Petitioner before framing of charge and to enable the Petitioner's Advocate to apply for discharge before the learned Sessions Judge.

4. Learned APP does not dispute the fact that on the very 1st day when the matter came up before the learned Asstt. Sessions Judge, Pune, charge was framed, without giving an opportunity

to the Petitioner to apply for discharge or without ensuring that the Petitioner had engaged an Advocate.

5. Perused the papers including the roznama tendered by the learned APP. It appears that the case was committed to the Court of the Sessions on 02.09.2016 and was received by the Sessions Court on 19.09.2016. The matter was assigned to the learned Ad-hoc District & Asstt. Sessions Judge on 21.09.2016 and the matter appeared for the first time before the learned Ad-hoc District & Asstt. Sessions Judge on 30.09.2016, on which date the learned Judge was pleased to frame charge against the Petitioner. It appears that the Petitioner had not engaged an Advocate, as a result of which the Petitioner was deprived of his statutory right to claim discharge under Section 227 of the Code of Criminal Procedure.

6. Accordingly, the impugned order (Exh.8) dated 30.09.2016 passed by the learned Asstt. Sessions Judge, Pune in S.C.No.667 of 2016, framing charge (Exh.8) is set aside.

7. Learned counsel for the Petitioner states that the Petitioner will engage an Advocate before the next date and will also file an Application seeking his discharge from the said case. The said statement is accepted.

8. Accordingly, the Petition is allowed & disposed of.

Parties to act on the authenticated copy of this order.

(REVATI MOHITE DERE, J.)