

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

CRIMINAL WRIT PETITION NO.1451 OF 2017

Prem Prakash Gupta	...Petitioner
Versus	
The State of Maharashtra & Anr.	...Respondents
.....	
Mr. V.K. Gupta for the Petitioner.	
Mr. S.R. Agarkar, APP for the Respondent No.1-State.	

CORAM : SMT. ANUJA PRABHUDESSAI, J.

DATED: 13th DECEMBER, 2017.

P.C.:-

The Petitioner herein has challenged the order dated 15th February, 2017 whereby his discharge application at Exhibit-89 filed in Sessions Case No.495 of 2013 has been rejected by the Additional Sessions Judge, Greater Bombay.

2. The records reveal that charge sheet has been filed under Sections 364(a), 506(II), 465, 472, 120 B r/w. 34 of the IPC. The Petitioner had filed an application for discharge. The learned Sessions Judge has dismissed the said application on 15.2.2017. A perusal of the impugned order reveals that the Petitioner was not present on the relevant date and he was not heard in the matter. Perusal of the Roznama, extracts of which are at Exhibit D-1 and D-2 page Nos.110

and 111 respectively, reveals that the Petitioner had filed his written submissions and also list of citations. The learned Judge had not considered the written submissions filed by the Petitioner and the citations relied upon by him in support of his contention. Considering this fact, in my considered view the matter needs to be remanded to the Sessions Court, Greater Bombay.

3. Hence, the Petition is allowed. The impugned order is set aside. The Sessions Court, Greater Bombay is directed to decide the application for discharge afresh, after hearing the respective parties. It is made clear that this Court has not gone into the merits of the matter and the application be decided on its own merits and in accordance with law.

(ANUJA PRABHUDESSAI, J.)