

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

CRIMINAL APPLICATION NO. 246 OF 2020

Reza Borhani Shidani	...Applicant
Versus	
The State of Maharashtra & Anr.	...Respondents

Mr. Pradeep M. Havnur for the Applicant

M. S. V. Sonawane, A.P.P for the Respondents–State

CORAM : REVATI MOHITE DERE, J.
FRIDAY, 9th OCTOBER 2020
(THROUGH VIDEO CONFERENCING)

P.C. :

1 Heard learned counsel for the parties.

2 By this application, the applicant has impugned the order dated
7th February 2020 passed by the learned Special Judge, NDPS Court,
Greater Mumbai, below Miscellaneous Application No. 144/2020 in NDPS
Remand Application No. 1309/2019.

3 Perused the papers. It appears that the applicant had filed an
application before the learned Special Judge being NDPS Misc. Application

No. 144/2020 and had sought certain reliefs in the said application i.e. to place before the Special Court the cell numbers of Officers whose names were mentioned in the statement dated 22nd November 2019 by Mr. Dnyaneshwar Ighe in FIR No. 64/2019, etc. as well as had sought a direction that the Police Commissioner to hand over CCTV Footages of feeders kept by the respondent No. 2 in the area mentioned in para 9 of the Misc. Application. The learned Special Judge vide order dated 7th February 2020 rejected the said application, essentially on the ground that charge-sheet had not been filed by the Investigating Officer, as investigation was not complete. It was observed by the trial Court in para 4 of the impugned order that till the charge-sheet is filed, the Court had no jurisdiction to interfere in the investigation. It was further observed that if after the charge-sheet is filed, it was brought to the notice of the Court that the Investigating Officer had kept serious lacunae in the investigation, only then, the Court can issue directions to the Investigating Officer to carry out further investigation. In view of the aforesaid observations, the learned Judge held that the application filed by the applicant was not maintainable and accordingly disposed of the applicant's Misc. Application No. 144/2020.

4 Learned counsel for the applicant states that in the interregnum i.e. after the petitioner's Misc. Application was rejected and after the filing of the aforesaid petition, the police have filed charge-sheet in the said case.

5 Having regard to the observations made by the trial Court in para 4 of the impugned order dated 7th February 2020 and as now charge-sheet has been filed, it would be appropriate to relegate the applicant back to the trial Court. Order accordingly.

6 If a fresh application is filed by the applicant, the trial Court shall decide the same as expeditiously as possible and in any event, within three weeks from the date of filing of the said application.

7 It is made clear that this Court has not gone into the merits of the said application and all contentions of all parties are kept open.

8 Application is disposed of on the aforesaid terms.

9 All concerned to act on the copy of this order, digitally signed by the Senior Private Secretary of this Court.

REVATI MOHITE DERE, J.