

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

WRIT PETITION NO.2097 OF 2021

Rakesh Srikant Khanivadekar

Alias Rocky Alias Raju

...Petitioner

Vs

Union of India & Anr.

... Respondents

...

Mr. Vimal C. Jha for the Petitioner.

Ms. Raju R. Thakker for DRI-R.No.1.

Mr. Y.M.Nakhawa, APP for the Respondent No.2-State.

CORAM : SANDEEP K. SHINDE J.

DATE : DECEMBER 15, 2021.

P.C. :

The Additional Sessions Judge, Thane vide order dated 7th October, 2020 directed Intelligence Officer, to take appropriate steps for sending the samples for “Re-testing”.

2 This order is assailed in the Writ Petition under Article 227 of the Constitution of India.

3 Samples in question were sent for chemical analysis to the Deputy Chief Chemist, New Customs House, Mumbai on 30th April, 2020. Report was received on 13th May, 2020. Eleven samples were sent for analysis; out of which one set of five samples and another set of six samples, were sent for analysis before two different analysts in the same laboratory. Six samples were tested ‘Positive’ and balance five were found inconclusive in nature. It appears, as per the advice of Chemical Analyser, balance five samples were required to be tested further. As such, prosecution moved an application seeking permission to forward five samples for, ‘re-testing’.

4 The learned Additional Sessions Judge upon perusing the judgment of the Apex Court in the case of **Thana Singh v. Central Bureau of Narcotics in Criminal Appeal No.1640 of 2010 dated 23rd January, 2013**, granted

the application, in view of the fact, that application for re-testing was moved within stipulated period of 15 days from the date of receipt of first Report. I do not see, the learned Sessions Judge has committed any error in the exercise of the jurisdiction.

5 In view of the facts of the case and for the reasons stated above, petition is dismissed.

(SANDEEP K. SHINDE,J.)