

IN THE HIGH COURT OF JUDICATURE AT BOMBAY**CRIMINAL APPELLATE JURISDICTION****CRIMINAL WRIT PETITION NO.4227 OF 2019**

Santosh @ Shankar Pratap BinavatPetitioner.
Vs.
The State of MaharashtraRespondent.

Mr. P.G. Sarda for the Petitioner.
Mr. Amit Palkar, APP for the Respondent-State.

CORAM : A. S. GADKARI, J.
DATE : 13th JANUARY, 2021.

PC.:-

The Petitioner has impugned Order dated 21st June, 2018 passed below Exh.6 in the Sessions Case No.846 OF 2013, by the learned Additional Sessions Judge, Pune, rejecting his Application filed under Section 451 of the Code of Criminal Procedure, for return of property i.e. a Pistol owned by the Petitioner.

2 Heard Mr. Sarda, learned counsel for the Petitioner and Mr. Palkar learned APP for the Respondent State.

3 The prosecution case in nutshell is that, the Petitioner by pointing his pistol at Mr. Satish Kanade had threatened him with dire consequences. The Petitioner was a license holder of the said pistol.

Initially a crime under Sections 307, 323 and 504 read with Section 34 of the Indian Penal Code (for short, “IPC”) was lodged which on completion of investigation culminated in S.C. No. 846 of 2013. This Court

by its Order dated 1st April, 2019, discharged Applicant from the offence under Section 307 of the IPC.

In paragraph No.3 of the said Order, this Court (Coram :- Mrs. Mridula Bhatkar, J. as she then was) has observed that, the act of Petitioner is sufficient to frame charge under Sections 506 (2) and 504 read with Section 34 of the IPC.

4 Thus, as of today, the Petitioner would be facing charge under Section 506 (2) of the IPC read with other sections of the IPC. It is the precise prosecution case that, the Petitioner by use of his said licensed pistol, has committed the present offence. As the Trial pertaining to the said offence is subjudiced, it would not be appropriate to return the said weapon to the Petitioner.

5 Mr. Sarda, learned counsel for the Petitioner submitted that, the license of said pistol has already been expired and the Applicant may be permitted to renew the same.

As noted earlier, the Petitioner is facing a charge under Section 506 (2) of the IPC with allegation of threat by use of the said pistol. In view thereof, it is the considered opinion of this Court that, the said permission cannot be granted pending the trial of the said case.

Petition being de hors of merits, is accordingly rejected.

(A.S. GADKARI, J.)