

Urmila Ingale

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
WRIT PETITION NO. 205 OF 2020**

Jitendra Rajaram Shaha .. Petitioner
Vs.
The State of Maharashtra and ors. .. Respondents

Ms. Rui Danawala i/b Mr. Umesh Mankapure, for Petitioner.
Ms. Veera Shinde, APP for State.

CORAM : M. S. KARNIK, J.

DATE : FEBRUARY 16, 2022

P.C. :

1. This petition filed under Article 227 of the Constitution of India read with section 482 of the Code of Criminal Procedure (for short 'CrPC') challenges an order dated 19/11/2019 passed by the Additional Sessions Judge, Sangli, in Sessions case No.160 of 2019. The petitioner is an accused in connection with FIR bearing C.R. No. 92 of 2014 for offences punishable under sections 143, 145, 147, 148, 149, 353, 555, 323, 332, 427, 506 of Indian Penal Code. During the pendency of the trial, an application was made on 06/07/2019 by the applicant under section 227 of the CrPC for discharge. This application was made on the basis of the Government Resolution (for short 'GR') dated 13/01/2015 of the State Government. The petitioner claims that he is entitled to the benefit of the said GR. It is pointed by learned Counsel for the petitioner that as per

this GR dated 13/01/2015, in respect of those accused who have been charged for the offences involving social or political protest, the government has taken a decision to withdraw the criminal cases subject to fulfilling the conditions mentioned in the GR. It is the contention of the learned Counsel that the petitioner fulfills the conditions mentioned in the GR and therefore, he is entitled to apply for discharge.

2. Heard learned Counsel for the petitioner. Learned APP opposed the petition. The trial Court upon perusal of the GR observed that the decision to withdraw the cases referred to in the said GR is to be taken by the competent authority on the recommendation of the committee constituted thereunder. In that context, the trial Court observed that it is not empowered to deal with the concerned application. In effect the trial Court was of the opinion that the decision to withdraw the case is to be taken on the recommendation of the committee constituted under the said GR. I see no infirmity in the order passed by the trial Court.

3. Having perused the GR, it is obvious that if at all the petitioner claims benefit under the GR, he has to apply to the concerned authority and it is thereupon on the recommendation of the committee so constituted and after following prescribed procedure, the case can be withdrawn.

4. Learned Counsel for the petitioner submitted that an

application in fact was made on 05/12/2019 in terms of the said GR dated 13/01/2015 but there has been no response. It is always open to the applicant to apply afresh in terms of the said GR. In case such an application is made on the basis of the GR dated 13/01/2015, there is no reason why the concerned authority will not consider such request expeditiously and in accordance with law.

5. Subject to what is observed above, the petition is rejected.

(M. S. KARNIK, J.)