

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
WRIT PETITION NO. 2083 OF 2022

Vijay Ramesh Mohite

.....Petitioner

Vs.

State of Maharashtra

.....Respondent

Mr. Ganesh Bhujbal for the Petitioner.

Mr. S. S. Hulke, APP for Respondent-State.

CORAM : A. S. GADKARI, J.

DATE : 14th JULY, 2022.

P.C.:-

By the present Petition under Article 227 of the Constitution of India, the Petitioner has impugned the Order of framing of charge below Exh-10, dated 30th August, 2021 by the learned Judicial Magistrate First Class, Tasgaon.

2. It is the contention of the Petitioner that, the Police Officer of Respondent filed charge-sheet on 30th August, 2021 and immediately thereafter the Trial Court framed charge below Exh-10, without granting an opportunity of being heard to the Petitioner.

Mr. Bhujbal, learned Advocate for the Petitioner submitted that, as a matter of fact even the Petitioner was not afforded an opportunity to file an Application for his discharge. He further submitted that, the compliance of Section 207 as mandated by Section 238 of the Code of Criminal Procedure (for short 'Cr.PC.') was also not complied with before

framing of charge and copy of charge-sheet was supplied to the Petitioner after passing of impugned Order.

3. Perusal of record and in particular Roznama dated 30th August, 2021 maintained by the Trial Court pertaining to the present case, clearly supports the contention of the Petitioner. As the Petitioner was not afforded an opportunity of being heard before framing of charge and as it is the legal necessity as contemplated under Section 239 of Cr.P.C., the impugned Order dated 30th August, 2021 of framing of charge below Exh-10 is set aside.

4. Trial Court is directed to afford an opportunity to the Petitioner of being heard before framing of charge. Trial Court is expected to do the necessary compliance as mandated under the provisions of Cr.P.C. and in particular Sections 238 and 239 before framing of charge against the Petitioner.

This entire exercise be completed within a period of three weeks from the date of receipt of present Order.

5. Petition is allowed in the aforesaid terms.

6. All the concerned to act on an authenticated copy of this Order.

(A.S. GADKARI, J.)