

IN THE HIGH COURT OF JUDICATURE AT BOMBAY

BENCH AT AURANGABAD

CRIMINAL APPLICATION NO. 4019 OF 2022

SHAIKH JAVED S/O. ABDUL SATTAR

VERSUS

THE STATE OF MAHARASHTRA AND ANOTHER

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Advocate for Applicant : Party In Person

APP for Respondent No. 1/State : Mr. Y. G. Gujrati

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CORAM : KISHORE C. SANT, J.

DATE : 11th JANUARY 2023.

Per Court :

Heard. party-in-person.

1. The petition is filed challenging the order passed by the learned Additional Sessions Judge, Parbhani dated 10.11.2022, wherein the petitioner-original accused has filed an application under Section 311 of the Code of Criminal Procedure praying to the Court for calling the persons, who are cited by the prosecution, the witness and to whom the prosecution has not examined. The prosecution filed its say objecting the application stating that the statement of the accused under Section

313 is yet to be recorded and prayed for rejection of the application.

2. The learned Additional Sessions Judge after considering the application and the say file by the prosecution, observed that the petitioner can certainly file such application after his statement under Section 313 of the Cr.P.C. is recorded and dismissed the application.

3. Heard party-in-person at length. His submission is that once the witnesses were cited by the prosecution, it was necessary for the prosecution to examine those witnesses. He submits since the prosecution is apprehending that those persons will not depose again the accused petitioner, therefore deliberately they are not being examined. The learned APP submits that the right of the petitioner to call the witnesses for examination in the Court is not foreclosed. The Court has only observed that he can do so after his statement under Section 313 is recorded.

4. Considering the submission and after perusing the order, this Court finds that the learned trial Judge has rightly passed the order. There is no perversity or illegality in the order. As such there is no

merit in the petition and the same is hereby dismissed.

5. With this, the Criminal Application is disposed off.

[KISHORE C. SANT, J.]

Najeeb.