

IN THE HIGH COURT OF JUDICATURE AT BOMBAY**CRIMINAL APPELLATE JURISDICTION****CRIMINAL WRIT PETITION NO. 643 OF 2022****WITH****INTERIM APPLICATION NO. 3679 OF 2022****WITH****INTERIM APPLICATION NO. 06 OF 2023**

Mohd. Musa Ali Ahmed Shaikh

...Petitioner

Versus

The State Of Maharashtra

...Respondent

Mr. Sachin Gite appointed Advocate for Petitioner.

Mr. Ajay Patil, APP for Respondent-State.

**CORAM : A. S. GADKARI AND
PRAKASH D.NAIK, JJ.****DATE : 13th FEBRUARY, 2023.**

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P.C.:-

1. Heard Mr. Gite learned Advocate for Petitioner and Mr. Patil, learned APP. Perused record produced before us.
2. A bare perusal of Petition would indicate that, the Petitioner intends to establish his defence in C.R. No. 159 of 2020 registered with Vanrai Police Station, Goregaon, Mumbai wherein he is an accused, by way of pleadings in the present Petition.

It is the settled position of law that, the defence of an accused cannot be tested/adjudicated in a Petition under Article 226 of the Constitution of India.

4. The Petitioner is at liberty to put forth his defence before the Trial

Court wherein his trial arising out of C.R. No.159 of 2020 is pending.

5. According to us, present Petition is misconceived and is dismissed.

6. In view of disposal of Petition, Interim Application Nos. 3679 of 2022 and 06 of 2023 do not survive and are accordingly disposed off.

(PRAKASH D. NAIK, J.)

(A. S. GADKARI, J.)