

Ghuge

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION**

CRIMINAL REVISION APPLICATION NO.61 OF 2023

Kiran Prakash Kulkarni	... Applicant
V/s.	
State of Maharashtra and Anr	... Respondents

Mr. Yug Mohit Chaudhry counsel with with Mr. Ajay Basutkar, Shgruti Bedekar for the applicant.

Mr. M.G. Patil, APP for the State.

Mr. Manisha Jagtap with Mr. Karan Rasne for ED.

CORAM : AMIT BORKAR, J.

DATED : MARCH 27, 2023

P.C.:

1. By the impugned order application for discharge filed by the applicant has been rejected mainly on the ground that the applicant is trying to prolong the matter. Another reason mentioned is that the applicant intend to stall progress of the trial contrary to the direction of the Apex Court.
2. The right to file discharge application is a statutory right conferred upon an accused. The Court before whom such application is filed needs to adjudicate it on merits, particularly when the charges are yet to be framed.
3. The learned advocate for the applicant states that on the same day of rejection of discharge application, the Special Court has framed charges without giving opportunity of hearing to the applicant.

4. Result of exercise of power by the Special Court is that the opportunity of accused to satisfy the Court about the lack of sufficient material to frame charge is taken away. It appears that the contentions raised on behalf of the accused that there is no material to frame charge/ground to proceed against the applicant has not been adjudicated upon by the Special Court. Therefore, the order of rejection of discharge application and framing of charges against the applicant needs to be quashed and set aside.
5. The learned Court of Session, Designated as Special Court under the PML Act, 2002, Greater Bombay shall decide application for discharge filed by the applicant within a period of Four weeks from 11th April, 2023.
6. The Criminal Revision Application shall stands disposed of in the above terms. No costs.

(AMIT BORKAR, J.)