

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

CRIMINAL APPEAL NO. 1058 OF 2023

John @ Jatin Mohan Chavda
v/s.

.... Appellant

The State of Maharashtra

.... Respondent

Mr. Mithilesh Mishra a/w. Mr. Agastya Desai for the Appellant.

Mr. J.P. Yagnik, APP for the State.

Mr. J.D. Bhosale, PSI, Crime Branch, Pune City, present.

Mr. Kavediya and Mr. Fargade, APPs, MCOCA Court, Pune.

**CORAM: A.S. GADKARI AND
SHYAM C. CHANDAK, JJ.**

DATED : 12th MARCH, 2024.

P.C. :-

1) By the present Appeal under Section 12 of The Maharashtra Control of Organised Crime (MCOC) Act, 1999, Appellant (original accused no.13) has impugned Order dated 05th October, 2021 passed below Exhibit No.124, framing charge against him as contemplated under Section 228 of Cr.PC. in MCOC Special Case No.25 of 2018, by the learned Special Judge (MCOC Act), Pune.

2) Perusal of record clearly indicates that, either on 05th October, 2021 i.e., the date on which the impugned Order was passed or prior thereto, an opportunity of being heard and/or to file an Application for discharge under Section 227 of the Cr.PC., was not afforded to the Appellant by the trial Court. It is the mandate of law that, an accused is

entitled to be heard before framing of the charge as contemplated under Section 227 of Cr.PC.

3) On this count alone, we set-aside the impugned Order dated 05th October, 2021 *qua* the Appellant only and direct the learned Special Judge (MCOC Act), Pune to grant an opportunity of being heard to the Appellant on his Application for discharge in MCOC Special Case No.25 of 2018. The trial Court may thereafter proceed to frame charge under Section 228 of Cr.PC.

4) Appeal is allowed in the aforesaid terms.

(SHYAM C. CHANDAK, J.)

(A.S. GADKARI, J.)

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