

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

REVISION APPLICATION NO. 34 OF 2024

Omprakash@Babloo@Arun Vishwanath
Prasad Shrivastav

...Applicant

vs.

The State of Maharashtra

...Respondent

Mr. Raja Thakare, Senior Advocate a/w Dhananjay Kandharkar a/w Mr. Chaitanya S. Kotnis	Advocate for the Applicant
Mr. A. D. Kamkhedkar	APP for the Respondent-State

CORAM : S. M. MODAK, J.

DATE : 26th MARCH 2024

P. C. :-

1. Heard learned Senior Advocate Shri Thakare for the Applicant.
2. His client has applied for discharge before the Court of the Additional Sessions Judge, Pune. He is one of the accused for an offence registered with Wanavadi Police Station, for the offences punishable under Sections 302, 397, 364, 341, 201 read with 120-B of the Indian Penal Code and under Section 27 of the Arms Act, 1947. One person by name Sagar Ladkat while driving his own car was

obstructed by few of the persons, in their four wheeler and scooter. They have compelled him to proceed with them in a particular direction and then he was killed and also robbed. Police found his dead body at particular place. During investigation, it was revealed that the present Applicant is undergoing sentence in jail at Uttar Pradesh and is one of the conspirator and by interacting with other conspirators, he was instrumental in committing murder. Charge-sheet was filed at page no. 773.

3. He prayed for discharge. However, after long time his application was rejected on 21/12/2022. (page no. 778).

4. Learned Senior Advocate Shri Thakare has invited my attention to the relevant observations particularly in para no. 4 of the said order. The learned Judge has specifically referred to two statements. They are as follows :-

a) Statement of Mohammad Naim, dated 25/01/1999, at page no. 638

b) Statement of Sayeed Adam, dated 26/01/1999, at page no. 622.

5. The contention of learned Senior Advocate Mr. Thakare is that even if we read the statements of both these witnesses, no where it discloses that how the Applicant is one of the Conspirator. According

to him, the materials collected by the Police does not indicate the following facts:-

- (a) The Applicant has used any mobile handset either for giving threat or interacting with the co-accused.
- (b) No mobile handset was recovered from him.
- (c) His voice sample is not collected.
- (d) There is no tower location on record indicating that any mobile call was made from inside the jail.

There are no intercepting call, wherein the Applicant is one of the speaker.

6. Learned APP has also read over the summary of the charge-sheet on page no. 773. He seeks time to take instructions in respect of the submissions advanced today.

7. Stand over to **02 April 2024 at 2.30 p.m..**

[S. M. MODAK, J.]