



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
: NAGPUR BENCH : NAGPUR.

CRIMINAL WRIT PETITION NO. 832 OF 2024

UMESH S/o KARTIK RAO

VERSUS

STATE OF MAH., THRU. P.S.O., P.S., PACHPAOLI, NAGPUR

Office Notes, Office Memoranda of
Coram, appearances, Court's Orders
or directions and Registrar's order

Court's or Judge's Order

Mr. Abdul Subhan, Advocate for the petitioner.
Mr. C. A. Lokhande, A.P.P. for the respondent/State.

CORAM : G. A. SANAP, J.

DATE : OCTOBER 15, 2024.

1. Heard Mr. Abdul Subhan, learned advocate for the petitioner and Mr. C.A. Lokhande, learned Additional Public Prosecutor for the respondent/State.

2. The order impugned in this writ petition is dated 02.04.2024, passed in Sessions Case No. 166/2023, whereby the learned Additional Sessions Judge, Nagpur, passed the following order on the application for discharge filed by the petitioner :-

“The application be taken in after the recording of the evidence.”

3. It is to be noted that the application made by the accused for discharge has to be decided before framing the charge. The application for discharge cannot be kept in abeyance until recording of the evidence. The procedure

adopted by the learned Judge is contrary to the law. The learned Judge was expected to decide the discharge application on its merits before proceeding further with the trial. The impugned order would show that the learned Judge did not apply his mind to the facts and the relevant provisions of law. As such the order deserves to be set aside.

4. Learned advocate for the petitioner, who is accused no.7, submits that till date the charge has not been framed in the case.

5. Accordingly, the Criminal Writ Petition is allowed.

6. The impugned order dated 02.04.2024 passed by the learned Additional Sessions Judge, Nagpur in Sessions Case No. 166/2023, is set aside.

7. The learned Additional Sessions Judge, Nagpur shall dispose of the discharge application within four weeks from receipt of this order and then proceed further with the trial.

8. The petition stands disposed of in the aforesaid terms.

(G. A. SANAP, J.)