



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

CRIMINAL REVISION APPLICATION NO. 245 OF 2025

Dishant Raja Salve

..APPLICANT

VERSUS

State of Maharashtra

..RESPONDENT

....
Mr. S.S. Kulkarni, Advocate for the applicant
Ms. A.S. Deshmukh, A.P.P. for the respondent - State
....

CORAM : ABHAY J. MANTRI, J.
DATE : 15th OCTOBER, 2025

ORAL JUDGMENT :

1. The applicant / accused no.2, being aggrieved by the order dated 23rd June, 2025, passed by the learned Sessions Judge, Aurangabad, below Exhibit 63 in Sessions Case No. 263 of 2018, whereby the application for seeking his discharge under Section 227 of the Code of Criminal Procedure was rejected, has preferred this application.
2. Heard learned counsel for the applicant and learned A.P.P. for the State at length. Perused the impugned order, application, reply and copy of the charge-sheet.
3. Learned counsel for the applicant vehemently contended that no material had been produced by the prosecution before the Court to show the involvement of the applicant in the present crime. However, the learned

Sessions Judge has not considered the said fact in its proper perspective and erred in relying on the submissions made by the prosecution that during the investigation, Accused No.1 – Abhishek Lad had disclosed the name of Sunil Mali and Shrirang Sanap and thereby erred in holding that the applicant was also involved in the present crime. Therefore, he urged allowing the application to discharge the applicant from the offence by setting aside the impugned order.

4. *Per contra*, learned A.PP strongly opposed the application, contending that Accused No.1- Abhishek Lad disclosed the names of Sunil Mali and Shrirang Sanap during the investigation. The police also found that the applicant was living at the address given by Abhishek Lad. Likewise, similar types of fake currency notes were recovered from the applicant's possession in Crime No. 101 of 2018. Therefore, she submitted that the material on record prima facie shows the applicant's involvement in the present crime.

5. On query, put to her what the materials/documents in the charge-sheet show the involvement of the applicant in the crime; however, she failed to point out any document or material from the charge-sheet to connect the applicant with the present crime. Undisputedly, nothing has been recovered from the possession of the applicant in the present crime. She was further asked to point out where the statement of the accused, Abhishek Lad, was, but she failed to point out the statement of Abhishek Lad from the entire

charge sheet. For the sake of the argument, even assuming that, as per the say of the prosecution, that during the investigation, Abhishek Lad had stated the names of Sunil Mali and Shrirang Sanap, but no such statement is produced on record along with the charge-sheet. Also, it is not evident from the charge sheet that Abhishek Lad had given the address of Sunil Mali and Shrirang Sanap to the investigation officer, nor has the investigation agency been able to explain this fact before the Court. Similarly, no document is produced on record along with the charge sheet to connect the present applicant with the crime in question.

6. It is a trite law that the application of the judicial mind is necessary to determine whether a case has been made out by the prosecution for proceeding with trial, and it would not be required to delve into the pros and cons of them by examining the defence of the accused when an application for discharge is filed. At that stage, the trial Judge has to examine the evidence placed by the prosecution in order to determine whether or not the grounds are sufficient to proceed against the accused based on the charge sheet material. The nature of the evidence recorded or collected by the investigating agency or the documents produced, which prima facie reveal that there are suspicious circumstances against the accused, so as to frame a charge of framing the charge. If there is no sufficient ground for proceeding against the accused necessarily, the accused will be discharged. Still, if the court is of the opinion, after such consideration of the material, that there are

grounds for presuming that the accused has committed the offence which is triable, then certainly a charge has to be framed.

7. The main intention of granting a chance to the accused to make submissions as envisaged under Section 227 Cr. P. C. is to assist the court in determining whether it is required to proceed to conduct the trial. It is also a settled principle of law that at the stage of considering an application for discharge, the court must proceed on an assumption that the material which the prosecution has brought on record is true and evaluate said material in order to determine whether the facts emerging from the material taken on its face value, disclose the existence of the ingredients necessary of the offence alleged.

8. The primary consideration at the stage of framing of the charge is the test of the existence of a prima facie case, and at this stage, the probative value of materials on record need not be gone into. In view of the above settled position of the law, it is necessary to examine the impugned order.

9. Perused the impugned order. The learned Sessions Judge in paragraph no. 5 of the impugned order observed that during the investigation, Abhishek Lad had taken the names of Sunil Mali and Shrirang Sanap as the persons who supplied fake currency notes to him. However, nothing is on record to show that the accused Abhishek Lad has given the persons' details or their address. Therefore, the question of searching the applicant by the investigation agency at the said address does not arise. Alike,

accused – Abhishek Lad has not stated the name of the present applicant. Therefore, it would not be proper for the investigation officer to directly connect the applicant with the present crime without any material on record to show his involvement in the present crime based on registering another crime against him. Thus, it appears that the learned Sessions Judge, based on the registration of the Crime No. 101 of 2018 against the applicant at Osmanpura Police Station and seizure of the same types of fake currency notes from his possession in the said crime, has recorded findings about his involvement in the present crime. The said findings appear contrary to the materials/documents on record. In fact, it was incumbent on the prosecution to point out from the entire charge sheet that there is material/document against the applicant to connect him to the present crime. In the absence of the same, I find substance in the contention of learned counsel for the applicant in that regard. Thus, if the material on record is taken as a whole, it does not reveal that the offence is constituted. In such an eventuality, prosecution of the case against will be an abuse of the process of the court, leading to injustice. In such circumstances, it would be appropriate to discharge the accused.

10. Having considered the above discussion, it appears that prima facie no material is annexed along with the charge-sheet to connect the applicant in the present crime; as such, the observations made by the learned Sessions Judge appear contrary to the facts on record. Therefore, the findings

recorded by the learned Judge cannot be sustained in the eyes of the law and are liable to be set aside. The prosecution prima facie failed to point out from the records any material to connect the applicant with the present crime; therefore, in such circumstances, in my view, the applicant is entitled to get discharged under Section 227 of the Cr. P. C.

11. Consequently, a revision application is allowed. The impugned order dated 23rd June, 2025, passed by the learned Sessions Judge, Aurangabad, below Exhibit 63 in Sessions Case No. 263 of 2018, is hereby quashed and set aside. As a sequel, the application filed below Exhibit 63 is allowed in terms of the prayer clause (B). No order as to costs. Inform the order to the learned Sessions Judge.

(ABHAY J. MANTRI, J.)

SSD