

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

CRIMINAL APPLICATION NO.439 OF 2025

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Viraf Jehangir Kapadia }
Age : 68 Years, an adult Indian citizen, }
Residing at : R 28, Godrej Baug, Napean Sea }
Road, Mumbai – 400036. } **...Applicant**

Versus

The State of Maharashtra }
(Through Government Pleader) } **...Respondent**

Mr.Carl Patel a/w Ms.Sanaea Umrigar:-	Advocates for Applicant.
Ms.Gauri S. Rao:-	APP for Respondent – State.
Mr.Satish Chavan – PSI:-	Matunga Police Station.

CORAM : S. M. MODAK, J.

DATE : 14th AUGUST 2025

P.C. :-

1. Heard learned Advocate for the Applicant / Accused and learned APP.
2. The Applicant who is facing prosecution for the offences under Sections 499, 501 and 509 of Indian Penal Code, 1860 (“IPC”) and under Section 67A of the Information Technology Act, 2000 (“IT Act”) is praying for issuing directions to the Court of Judicial

Magistrate First Class – Kurla to expedite the trial of that criminal case.

After filing of this Application, he has filed a discharge Application before the trial Court on 24th November 2024. Its copy is tendered on record. It is taken on record and marked Annexure-X. This discharge Application was filed as per the liberty granted by the Division Bench on 24th March 2023 in Criminal Writ Petition No.2930 of 2022. It was a Petition for quashing.

3. On account of the age of the Applicant who is at present running 72 years old wants the disposal of the case during his lifetime. Learned Advocate for the Applicant submitted that there are certain legal issues as to whether the Police can submit a charge-sheet for the offences under Section 499 read with 500 of IPC. This issue can be decided by the concerned trial Court. Even he has invited my attention to the list of witnesses on Page No.22 wherein the Chief Executive Officer of Meta (Facebook) is cited as a witness. The case is based on the Facebook post as it is posted by this Applicant thereby defaming the First-Informant. According to learned Advocate, it is not only difficult but next to impossible to examine him as a witness. According to him, there is no merit in the prosecution case and he has got a good chance of acquittal. From the list of dates submitted, it is clear that the

prosecution has filed a reply on 31st May 2025 and the next date is 21st August 2025. It ought to be for hearing of discharge Application.

4. Even though in the prayer clause, the case number is 10857/PS/2022, now the new case number is 171/PW/2025. It is on account of converting a summons case into the warrant case. But basically the charge-sheet is of the year 2022 and the contention is the learned Magistrate seized of the case should treat the case as of the year 2022. He is right. It is true that the learned Magistrate presided over the Court has to decide priorities on the basis of other workload, '*undertrial prisoners*' and '*expedited matters*'. Even though it is true that the Applicant is a senior citizen and there is a circular by this Court to give priority to such matters.

5. In view of that, certain directions can be given. The trial will start only if the discharge prayer is rejected. Hence the following directions are given:-

-: **DIRECTIONS** :-

- (i) The Court of Judicial Magistrate First Class-Kurla is directed to decide the discharge Application in the case No.171/PW/2025 as early as possible and not later on 4 months from uploading the order.
- (ii) If the discharge Application is not allowed, then to frame a

charge at the earliest and instead of this Court fixing a time limit, direction is given to the learned Magistrate to fix a time limit by giving following directions:-

- (a) **By giving direction to the prosecution to explain how many witnesses to be examined;**
- (b) **then fix a time limit for completing the prosecution evidence;**
- (c) **and then fix a time limit for recording of statement and for advancing arguments.**

6. With these observations, **the Application is disposed of.**

[S. M. MODAK, J.]