

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

CRIMINAL WRIT PETITION NO.6694 OF 2024

Sudarshan Jaising Kamble Petitioner

V/s.

The State of Maharashtra Respondent

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Mr.Siddharth Jagushite, for the Petitioner.

Mr.Kiran C. Shinde, APP, for Respondent-State.

Mr.Dnyeshwar Ladse, PSI, Mulund Police Station, Thane.

CORAM : SHIVKUMAR DIGE, J.

DATE : 26th MARCH 2025

P.C:-

1. Heard learned counsel for the Petitioner and learned
APP.

2. By this Petition, the Petitioner has challenged the
framing of the charge, below Exhibit-12 by Special Judge in
POCSO Act, Greater Mumbai.

3. It is contention of the learned counsel for the
Petitioner that, the learned Judge has framed charge on 23rd
February 2024 below Exhibit-12 against the Petitioner, but in the
said charge no date and time of offence is mentioned.

4. The learned counsel further submitted that no procedure under Section 226 of the Cr.P.C. followed while framing charge. Hence, requested to allow the Petition.

5. It is contention of the learned APP that, to take note of the framing of the charge shows that, charge was read over and explained to the Petitioner in vernacular and he pleaded not guilty and claimed to be tried. It shows that before framing of charge it was read over to the Petitioner. Hence, requested to dismiss the Petition.

6. I have heard both learned counsel. Perused order passed by the learned Trial Court while framing charge. It appears that learned Judge has explained charges proposed to be framed against the Petitioner in vernacular, but no compliance under Section 226 of Cr.P.C. is made. Section 226 read thus :-

“Section 226 of Cr.P.C. : Opening case for prosecution :- When the accused appears or is brought before the Court in pursuance of a commitment of the case under Section 209, the prosecutor shall open his case by describing the charge brought against the accused and stating by

what evidence he proposes to prove the guilt of the accused.

It appears that, the learned Trial Court has not stated to the Petitioner, what evidence he proposes to prove the guilt of the Petitioner. Considering these facts, I pass following order.

7. The Petition is allowed. The charge's framed against the Petitioner are quashed and set aside. The learned Trial Court shall frame fresh charges against the Petitioner by following the provisions of Section 226 of Cr.P.C.

(SHIVKUMAR DIGE, J.)