

IN THE HIGH COURT OF JUDICATURE AT BOMBAY**CRIMINAL APPELLATE JURISDICTION****WRIT PETITION NO. 838 OF 2025**

Jitendra Dhanyakumar Kurundwade

... Petitioner

V/s.

The State of Maharashtra & Anr.

... Respondents

Mr. Kiran C. Shirguppe for Petitioner.

Mr. Vinod Chate, A.P.P. for Respondent No.1-State.

Mr. Joitiba M. Bhosle, PSI, Sanjaynagar Police Station Sangli.

**CORAM : A. S. GADKARI AND
RAJESH S. PATIL, JJ.****DATE : 28th July 2025.****P.C. :**

1) By this Petition under Article 226 of the Constitution of India, the Petitioner is seeking quashing of C.R. No. 240 of 2025, dated 14th November 2024, registered with Sanjaynagar Police Station, Sangli, punishable under Sections 5, 6, 7, 8, 11, 19(c), 21 and 35 of the Fertiliser (Control) Order 1985 and Sections 3(2)(a), 3(2)(d), 7 and 9 of the Essential Commodities Act.

2) At the outset, learned APP on instructions from Mr. Bhosle, PSI, Sanjaynagar Police Station Sangli, submitted that, in the present case investigation is completed and charge-sheet is filed before the Court of Chief Judicial Magistrate, Sangli and the same has been numbered as R.C.C. No. 370 of 2025.

3) In view of the fact of filing of charge-sheet, present Petition for quashing of F.I.R. has become infructuous.

3.1) Reliance is placed on the decision of the Hon'ble Supreme Court in the case of *Neeta Singh & Ors. Vs. The State of Uttar Pradesh & Ors., Special Leave to Appeal (Cri.) No. 13578 of 2024, dated 15th October 2024.*

4) There is another facet to the present Petition.

4.1) As noted above, it is an admitted fact on record that, after completion of investigation, the Police have filed charge-sheet before the trial Court.

4.2) In view thereof, the Petitioner is having substantive alternate statutory remedy by way of filing an application for discharge before the trial Court, as may be permissible under the BNSS.

5) It is the settled position of law and as has been decided in a catena of decisions by the Hon'ble Supreme Court, that ordinarily the Court will not entertain a Petition modified under Article 226/227 of the Constitution of India, where the Petitioner has an alternate remedy, without being unduly onerous, provides an equally efficacious remedy. Though no hurdle can be put against the exercise of the constitutional powers of the High Court, it is a well recognized principle which gained judicial recognition that, the High Court should direct the party to avail of such remedies, one or the other before he resorts to a constitutional remedy.

5.1) Reliance is placed on the following decisions:-

- (i) Thansingh Nathmal Vs.The Superintendent of Taxes, Dhubri & Ors., reported in AIR 1964 SC 1419.
- (ii) A. Venkatasubbiah Naidu Vs. S. Chellappan & Ors., reported in (2000) 7 SCC 695.
- (iii) Shalini Shyam Shetty & Anr. Vs. Rajendra Shankar Patil, reported in (2010) 8 SCC 329.
- (iv) Radhey Shyam & Anr. Vs. Chhabi Nath & Ors., reported in (2015) 5 SCC 423.
- (v) Genpact India Private Limited Vs. Deputy Commissioner of Income-Tax & Anr., reported in (2019) 419 ITR 440 (SC).
- (vi) Virudhunagar Hindu Nadargal Dharma Paribalana Sabai & Ors. Vs. Tuticorin Educational Society & Ors., reported in (2019) 9 SCC 538.
- (vii) Magadh Sugar & Energy Ltd. Vs. State of Bihar & Ors., reported in 2021 SCC OnLine SC 801.

6) According to us, filing an Application for discharge before the trial Court is not an onerous remedy and in fact an equally efficacious remedy. The Petitioner cannot be permitted to raise a specious plea calling upon this Court to adjudicate his innocence in a Petition under Article 226 of the Constitution of India. It is against the settled principles of law. At the same time, the Petitioner cannot be permitted to make the statutory provisions of the Cr.PC./BNSS otiose, by directly approaching this Court under Article 226 of the Constitution of India.

7) In view of the above and by reserving the remedy of filing an application for discharge before the trial Court in favour of the Petitioner, Petition is disposed off.

(RAJESH S. PATIL, J.)

(A.S. GADKARI, J.)