

ANAND
SUDHAKAR
SUDAME

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

WRIT PETITION NO. 3588 OF 2025

Rev. father Romeo Nelson Jacob Sadana

.Petitioner

Versus

The State of Maharashtra & anr.

.Respondents

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Date:
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Mr. Anil D'Souza a/w. Mr. Mark Dbritto i/b. Ernest Tuscano,
Advocate, for the Petitioner

Ms. G. S. Rao, APP, for Respondent No. 1 - State

CORAM : S. M. MODAK, J.

DATE : 24.07.2025

P. C.

1. Heard Mr. D'Souza, learned Advocate for the Petitioner and Ms. Rao, learned APP for Respondent No. 1 – State.

2. Respondent No. 2 is the NGO who has lodged a complaint with the office of the Municipal Corporation of Greater Bombay about illegal land filling. The Junior Engineer inspected the spot and lodged an FIR against the present Petitioner for the offences punishable under Sections 43 & 52 of the Maharashtra Regional and Town Planning Act, 1966 (for short “MRTP”).

3. The Charge-sheet is already filed and the Petitioner has filed the discharge Application on several grounds. One of the ground is

about competence of the police officer to lodge an FIR under the provisions of the MRTP Act.

4. When the Application is pending, the present Respondent No. 2 filed an Application for permitting them to intervene in the matter and to assist the prosecution. A copy of that Application is filed on page No. 34 of the Petition. The Petitioner has opposed the said Application for filing reply. Learned JMFC, 39th Court, Vile Parle, Mumbai vide Order dated 05.04.2025 has allowed the Application. The Order reads thus :-

“ORDER

- (1) *The application is allowed.*
- (2) *The applicant is allowed to assist the prosecution.”*

5. The Applicant is allowed to assist the prosecution. The Accused is aggrieved by the said Order.

6. During arguments, learned Advocate for the Petitioner submitted that even if this Court will clarify about the scope of assistance, he will be satisfied. According to him, act of assistance means to interact with the learned APP and at the most file written arguments. He has no right to address the Court orally. Learned APP also accepts this proposition.

7. I have read the Application for intervention. He has reiterated the reason why intervention is required. The prayer clauses of this Application read thus :-

- “(a) permit the Applicant to intervene in the matter and be permitted to assist the prosecution.*
- (b) cost of the application be provided for.*
- (c) pass such other and further in the interest of justice.”*

8. If we read an operative Order, learned Magistrate has allowed his Application in toto. Neither the Intervenor has prayed for addressing the Court orally nor the Court in the Order has indicated about an opportunity of addressing the Court orally. There is no prayer for advancing oral arguments.

9. The provisions of Sub Section 2 of Section 301 of the old Code are very clear. The scope is as follows :-

- (a) The Public Prosecutor is in-charge of the case will conduct the prosecution.
- (b) A private person can inspect a pleader to act under the directions of the Public Prosecutor.
- (c) With permission of the Court, can submit written arguments, when the evidence is closed.

10. According to the learned Advocate for the Petitioner, there are Judgments which opine that written arguments can be filed only after the evidence is closed and not earlier. But graciously he agrees that written arguments can also be filed at the time of hearing of the discharge Application.

11. In view of the above, the scope of Respondent No. 2 during the hearing of discharge Application is only to assist learned APP and to file written arguments with the permission of the Court.

These are the only submissions made. I am not issuing notice to Respondent No. 2.

12. With this clarification, the Petition stands disposed of.

13. It is made clear that when the trial Court has allowed Respondent No. 2 to assist learned APP, it cannot be inferred that he can argue orally. If Respondent No. 2 wants more liberty, he is at liberty to take appropriate steps and it will be considered on merits by the appropriate forum.

(S. M. MODAK, J.)