

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

CRIMINAL WRIT PETITION NO. 3928 OF 2025

Imran Noora Patel

...Petitioner

Vs.

The State of Maharashtra and Anr.

...Respondents

Mr. Veerdhawal Deshmukh	Advocate for the Petitioner
Mrs. G. S. Rao	APP for the Respondent-State

CORAM : S. M. MODAK, J.

DATE : 28th JULY 2025

P. C. :-

1. Heard learned Advocate for the Petitioner and learned APP.
2. As per order dated 23.11.2021, the Court JMFC, Panvel has issued process against the Petitioner for the offence punishable under Section 420 of the Indian Penal Code. Though it is not part of the pleading that the discharge application came to be rejected and the revision challenging the said discharge also stands dismissed, during arguments learned Advocate Mr. Deshmukh submitted that those

remedies were exhausted but failed. He is trying to justify the filing of this petition for the reason that there is a challenge to the order of the issuance of process and according to him, the scope for those remedies is limited. That is to say, only considering the documents filed alongwith complaint, whereas when the writ petition is filed, the scope is wide.

3. About the scope of inquiry in this proceeding he is correct. What I think is once those remedies are exhausted and there is no challenge to those orders, it will not be in the interest of the justice for this Court to exercise the jurisdiction under Section 482 of the Criminal Procedure Code.

4. About merits, learned Advocate Mr. Deshmukh submitted that the Complainant has also approached the trial court with prolonged delay. There was an inquiry conducted under Section 202 of the Criminal Procedure Code and then process was issued. According to them, the order of issuance of the process is an unreasoned order.

5. Now the case is fixed before the trial court for recording the evidence before the charge. The remedy available to the Petitioner is to convince the trial court that after recording of the evidence before the

charge, the evidence still falls short to frame the charge under Section 420 of the Indian Penal Code. If such plea is taken, the trial Court to satisfy itself that there is sufficient material to frame the charge under Section 420 of the Indian Penal Code and if it is found that there is sufficient material, trial court is at liberty to discharge the accused person. The trial court is to take proper call after hearing the present Petitioner.

6. It is made clear that refusal to discharge and dismissal of the revision application was at the stage earlier to recording of the evidence. In a criminal trial, the accused has the right to pray for discharge even after the evidence is recorded, prior to framing of the charge. This is as per old Section 245 (1) of the Criminal Procedure Code and new Section 268(1) of the Bharatiya Nagarik Suraksha Sanhita 2023.

7. With these observations, the Petition is disposed of.

8. This Court has not made any observations on merits.

[S. M. MODAK, J.]