

IN THE HIGH COURT OF JUDICATURE AT BOMBAY**CRIMINAL APPELLATE JURISDICTION****CRIMINAL WRIT PETITION NO. 4053 OF 2025**

Upendra Champakal Parekh and others

... Petitioners

V/s.

State of Maharashtra and another

... Respondents

Mr. Mithilesh Mishra i/b. Mr. Agastya Desai for Petitioners.

Mr. Vinod Chate, APP for Respondent No.1-State.

Mr. Subhash Hogale, PSI (I.O.), Dr. D. B. Marg Police Station, Mumbai.

Mr. Deepak Hol, PSI (Pairavi), Dr. D. B. Marg Police Station, Mumbai.

**CORAM : A. S. GADKARI AND
RAJESH S. PATIL, JJ.****DATE : 25th JULY 2025****PC.:-**

1) Learned APP, on instructions from Mr. Subhash Hogale, PSI, submitted that, investigation of crime is completed and charge-sheet is ready to be filed. That, the said charge-sheet will be filed within a period of three working days from today.

2) It is the settled position of law and as has been held by the Hon'ble Supreme Court in the case of *Manik B. Vs. Kadapala Sreyes Reddy & Anr., reported in MANU/SCOR/113641/2023*, at the stage of deciding the proceedings for quashing of crime under Section 482 of the Code of Criminal Procedure, 1973 (Cr.P.C.), the Court would exercise its powers to

quash the proceedings only if it finds that taking the case at its face value, no case is made out at all. That, at the stage of deciding an Application under Section 482, it is not permissible for the High Court to go into the correctness or otherwise any material placed by the prosecution in the charge-sheet. The scope under Article 226 of the Constitution of India is undoubtedly more constricted than the scope under Section 482 of the Cr.PC.

2.1) The Hon'ble Supreme Court in the case of *Iqbal alias Bala and Ors. Vs. State of U.P. and Ors.*, reported in (2023) 8 SCC 734, in paragraph No.7 has held as under :

“7. It is relevant to note that the victim has not furnished any information in regard to the date and time of the commission of the alleged offence. At the same time, we also take notice of the fact that the investigation has been completed and charge-sheet is ready to be filed. Although the allegations levelled in the FIR do not inspire any confidence more particularly in the absence of any specific date, time, etc. of the alleged offences, yet we are of the view that the appellants should prefer discharge application before the trial court under Section 227 of the Code of Criminal Procedure (Cr.PC). We say so because even according to the State, the investigation is over and charge-sheet is ready to be filed before the competent court. In such circumstances, the trial court should be allowed to look into the materials which the investigating officer might have collected forming part of the charge-sheet. If any such discharge application is filed, the trial court shall look into the materials and take a call whether any case for discharge is made out or not.”

3) As the prosecution has now made a statement that, it will file a charge-sheet within a period of three working days from today, by applying the principle of law enunciated by Hon'ble Supreme Court in the case of *Iqbal alias Bala* (supra), we deem it appropriate to relegate the Petitioner to file an Application for discharge before the trial Court under the relevant provisions of Cr.P.C. or B.N.S.S..

4) Petition is accordingly disposed off by reserving the remedy in favour of the Petitioner to file an Application for discharge or otherwise before the trial Court.

(RAJESH S. PATIL, J.)

(A.S. GADKARI, J.)