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

CRIMINAL REVISION APPLICATION NO. 252 OF 2025

Gurbir Mahavir Singh	... Applicant
V/s.	
State of Maharashtra	... Respondent

Mr. Sudeep Pasbola, Sr. Advocate a/w Mr. R
Sathyanarayana, for the applicant.

Mr. Sagar Agarkar, APP for respondent -State.

CORAM : AMIT BORKAR, J.

DATED : OCTOBER 15, 2025

P.C.:

1. The present Revision Application challenges the order passed by the learned Sessions Judge rejecting the discharge application filed by the applicant under Section 227 of the Code of Criminal Procedure.
2. The learned Senior Advocate appearing for the applicant submitted that the State Government of Maharashtra had taken a policy decision to drop criminal proceedings against the applicant on the condition that he pays a penalty. The applicant accordingly paid an amount of Rs. 50,000 in connection with C.R. No. 559 of 1997 and Rs. 3,000 in connection with C.R. No. 189 of 2000. Upon such payment, the applicant claims that no further prosecution ought to have been continued.

3. However, it appears from the record that the Special Public Prosecutor has not taken any decision on the communication issued by the State Government proposing withdrawal of the prosecution. This communication required the prosecutor to independently assess whether withdrawal from prosecution was justified in public interest, as per the settled principles of law.

4. Instead of calling upon the prosecutor to exercise his discretion on this issue, the applicant filed an application for discharge before the learned Sessions Judge. The trial court, after hearing both sides, rejected the said application by the impugned order.

5. Upon considering the reasons recorded by the learned Sessions Judge, this Court finds that the approach adopted by the trial court cannot be faulted. The trial court was right in declining to discharge the applicant, since the question of withdrawal from prosecution must first be considered by the Special Public Prosecutor, not by the court at the stage of discharge. The law laid down by the Supreme Court in *Sheonandan Paswan vs. State of Bihar and others* (1983) 1 SCC 438 makes it clear that the discretion to withdraw from prosecution under Section 321 of the Code of Criminal Procedure lies with the Public Prosecutor, who must act independently, guided by the principles of justice and public interest.

6. Therefore, it would be open to the applicant to move a proper application before the trial court, requesting that the Special Public Prosecutor be directed to take a reasoned decision

in accordance with the principles stated in *Sheonandan Paswan* (supra). If such an application is made, the prosecutor is under a duty to apply his independent mind and take a decision strictly in line with the parameters laid down in the aforesaid judgment, ensuring that the decision reflects both fairness and public interest.

7. With this clarification, the present Revision Application stands disposed of. All rights and contentions of the parties are kept open.

(AMIT BORKAR, J.)