

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

Criminal Application No.202 of 2025

Krushna Subhas Balurgi ... Applicant.
V/s.
State of Maharashtra ... Respondents.

**With
Criminal Application No.203 of 2025**

Atul Bapu Jadhav ... Applicant.
V/s.
State of Maharashtra ... Respondents.

Mr. Karma Vivan a/w. Tejas Kothalikar, Advocate Isha R. Singh, Advocate neel Paralikar	Advocate for the Applicants
Mr. H.J. Dedhia	APP for the State in APL 202/25.
Ms. R.S. Tendulakr	APP for the State in APL 203/25.

CORAM : S.M. MODAK, J

DATE : 15th July 2025.

P.C. :

Heard Mr.Karma Vivan, the learned Advocate for the Applicants and Mr. Dedhia and Ms. Tendulakr, the learned APPs appearing for the State.

2. The Court of Additional Session Judge, Pune on 19th November 2024 has framed the charge against in all 6 accused persons. It is for offences under Section 120B, 143 r/w 149, 147,148,

302 of IPC and there is also alternate charge framed on 19th November 2024. It is true for framing of charge, the learned trial Court Judge is required to incorporate various details about the allegations, the type of a charge qua the accused persons. For that purpose the provisions of Section 211 onwards need to be looked into. In nutshell the framing of charge involves the application of a judicial mind because Court is required to consider material.

3. It is true the sessions trial involves a serious offence. That is why there is a provision incorporated in Section 226 of the Code. Thereby, the learned Prosecutor can explain to the Court what is the evidence. Such provision is not there in other type of trials. In this case the relevant Roznama dated 19th November 2024 does not record about opening of the case. At the same time it is important to note that the accused needs to be given an opportunity of hearing. Because the stage of framing of the charge under Section 228 of Code of Criminal Procedure comes later on. The charge can be framed only when the accused is not discharged under Section 227 of the Code of Criminal Procedure. So prior to framing of charge, the Roznama dated 19th November 2024 does not record that the accused were heard. Merely marking the presence of the accused and their respective Advocates is not sufficient compliance of Section 227 of the Code of Criminal Procedure.

4. The grievance in these two petitions is about non-compliance of that procedure only. It is true the Exhibit-56 is a bail application

filed by Accused No.1 on 24th September 2024. It is true prosecution filed a reply on 19th November 2024.

5. It is true in case of *Ambadas Kashirao Kharad v/s. State of Maharashtra*¹, the learned Single Judge of this Court has taken a note of such happenings and in fact observed in Para No.11 as follows:

“Since the practice of directly framing the charge against the accused in the Sessions Trial appears to have been followed by different Sessions/Additional Sessions Courts within the jurisdiction of this Court it is considered necessary to circulate this judgment to all the Sessions Judges within the jurisdiction of this Bench who in turn shall circulate the same to all the Additional Sessions Judges working in their respective divisions. The Registrar(J) to take appropriate steps in the matter.”

6. We can very well say that Accused No.1 is represented by the Advocate. That is not sufficient. The hearing has to be given and it has to be recorded somewhere. That is also not followed. So the order of framing of charge cannot be sustained in the eyes of law. In all there are six accused persons. Even though other accused are not before this Court, benefit has to be given to them also.

7. In view of that following order is passed:

¹ 2007 (1) Mah.L.J. (Cri.) 517

ORDER

- (i) The Writ Petitions are allowed.
- (ii) The order of framing of charge passed on 19th November 2024 by the Additional Sessions judge, Pune in Sessions Case No.723/2022 is set aside.
- (iii) The learned trial Court Judge is directed to seek compliance of the provisions of Section 226 and 227 of the Criminal Procedure Code and then to take appropriate decision about framing of charge.

8. At this juncture, the learned APP Shri Dedhia pointed out in these two matters and the earlier Criminal Application No.109/2025, similar issue has cropped up and they are from the Court of Additional Sessions Judge, Pune. So let certain directions be given so that the Judges seized of the sessions case will comply with the provisions of law so that the trial will not be delayed. I fully agree with his submissions. It is necessary to point out to the trial Court judges. Hence, the following directions:-

DIRECTIONS

- (a) The learned Principal District Judge, Pune is directed to bring it to the notice of all the Additional, Assistant and Ad-hoc Judges about the compliance of the provisions of Section 226 and 227 of Code of Criminal Procedure.

(b) He is at liberty to do so in the manner which he finds suitable.

(S.M. MODAK, J.)