

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

CRIMINAL WRIT PETITION NO. 5049 OF 2024

Rahul Vinodkumar Borad ...Petitioner

Versus

The State of Maharashtra ...Respondent

Mr. Karma Vivan, a/w Tejas Kothalikar, Isha Rakesh Singh, for
the Petitioner.

Smt. S. G. Talhar, APP for the State.

Mr. Hemant Miraje, PSI, Bandra Police Station, present.

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CORAM: N. J. JAMADAR, J.

DATED: 5th FEBRUARY, 2026

Order:-

1. Heard the learned Counsel for the parties.
2. This petition under Article 227 of the Constitution of India and Section 482 of the Code of Criminal Procedure, 1973 ("the Code") assails the order dated 2nd May, 2023 passed by the learned Sessions Judge in Sessions Case No.2/2019, whereby an application preferred by the petitioner for discharge under Section 227 of the Code, came to be rejected.
3. The petitioner also assails the order dated 6th January, 2024 framing charge against the petitioner and co-accused for the offences punishable under Sections 489(A), 489(B), 489(C),

419, 468 and 471 read with Section 34 of the Indian Penal Code, 1860 (“the Penal Code”).

4. The learned Counsel for the petitioner submitted that after the application for discharge came to be rejected and the charge framed against the petitioner, on 22nd March, 2025, for the first time, the prosecution claimed that the prosecution has placed on record a communication dated 7th March, 2024 that, the Investigating Agency had forwarded certain items i.e. laptop, mobile etc. for forensic analysis to FSL, State of Maharashtra. The petitioner – accused was never informed that the Investigating Agency had forwarded those items to FSL for analysis and the application for discharge was heard and decided on the premise that the entire investigation was complete and no further material was to be pressed into service by the prosecution. Thus, the application for discharge was rejected by the learned Sessions Judge on the basis of the then available material.

5. Banking upon the examination report dated 3rd May, 2024 issued by the FSL, Mr. Vivan, the learned Counsel for the petitioner, would urge that, had the said report been before the learned Sessions Judge, the accused would have been discharged. It is, therefore, necessary to quash and set aside

the impugned orders and remit the matter back to the learned Sessions Judge to decide the discharge application afresh.

6. To this end, the learned Counsel for the petitioner, sought to place reliance on the judgments of the Supreme Court in the cases of *Criminal Trial Guidelines Regarding Inadequacies and Deficiencies, IN RE and State of Andhra Pradesh and others*¹ and *P. Ponnusamy vs. State of Tamil Nadu*².

7. In the case at hand, the aforesaid grounds sought to be canvassed on behalf of the petitioner do not merit consideration. In the case of *Criminal Trial Guidelines* (supra), the Supreme Court, *inter alia*, directed that while furnishing the list of statements, documents and material objects under Sections 207/208 of the Code, the Magistrate should also ensure that a list of other materials, (such as statements, or objects/documents seized, but not relied on) should be furnished to the accused. This is to ensure that in case the accused is of the view that such materials are necessary to be produced for a proper and just trial, she or he may seek appropriate orders, under the Code for their production during the trial, in the interests of justice.

1 2021(10) SCC 598.

2 2022 SCC OnLine SC 1543.

8. In the case at hand, the petitioner contends that the report of examination is favourable to the petitioner. The said document is already placed on record. It is not the case that, the prosecution has attempted to suppress the material which favours the accused. At the stage of trial, the accused would, thus, be in a position to make such use of the said report as the accused may consider appropriate. However, that cannot be a ground to quash and set aside the order rejecting the application for discharge and framing of the charge, as the said orders imply that the material which then existed was sufficient to frame charge against the petitioners.

9. Resultantly the petition does not deserve to be entertained and, accordingly, stands dismissed.

[N. J. JAMADAR, J.]