


CNR.No. MHDH050000312025 	S.C.C 27/2025 State V/s Bhatu Rajendra Shirsath
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ORDER ON EXH.8

The applicant/accused Bhatu Rajendra Shirsath has filed the present application for seeking discharge for the offence punishable under section 185 of the Motor Vehicle Act, 1988.

2. Perused the application and say filed by Ld. App at the overleaf. Heard both sides at length. Considered the submissions.
3. It is submitted by the Ld. advocate for the accused that Police report does not contain sufficient material to prosecute the accused. No legally admissible material is brought on record against the accused. It is further submitted that the C.A (Chemical Analysis) report is not filed along with the police report. The accused has not committed any offence and entitled to be discharge from the offence.
4. As against this, the ld. App has opposed the application on the ground that prima facie sufficient material exists to attract the offence against the accused. The I.O has filed the police report based on statements and documentary material collected during the investigation. Hence, he prayed to reject the application.
5. Considering the rival submissions and arguments of respective parties following points are arises for my determination which reason stated thereon:

<i>Sr.No</i>	<i>Points for Determination</i>	<i>Findings</i>
1.	<i>Whether the application filed by the accused for seeking discharge in summary triable case is tenable?</i>	<i>No.</i>
2.	<i>Whether the accused is entitled to discharge on the ground of non-filing of C.A report?</i>	<i>No.</i>
3.	<i>What order?</i>	<i>Application for discharge is rejected.</i>

As to point no.1:-

6. It is pointed out by the Id. App that the present application is not maintainable as no such provision is provided in the summary cases. In response to the same the Id. Advocate for the accused submitted that the application is tenable under section 258 of the CrPC (New 281 of BNSS). In the present offence, the accused is chargesheeted for the offence punishable under section 185 of the Motor vehicle Act and the offence is punishable imprisonment extend to 6 month or fine. Therefore, the case falls under the summary trial procedure as per Chapter XXII of BNSS. In summary trials, there is no provision unlike in warrant cases and summons cases which is newly provided in the BNSS. Further having regard to the contention of the Id. Advocate for the accused that the application is tenable as per section 258, but section 258 specifically provided for the summons case and not for summary cases. Further, as per section 258 magistrate may drop the proceedings if no prima facie case exists, this can only happen if there is

clear abuse of process. But in the present case it does not appear to be. Therefore, the application filed by the accused lacks tenability due to procedural aspects. Hence, I answer point no.1 in negative.

As to point no.2:-

7 Moreover, though I answer above point in negative but in order to decide the application on merit it is necessary to consider the relevant facts on record and police report filed by the concern police. It is stated in the application that the C.A report or breath analysis report is not filed along with the police report. However, upon perusal of police report it appears that the Chief Medical Officer, Rural hospital, Sakri has filed the report on the same date at the time of occurrence of the incident. Where it prima facie disclose that the accused was under the influence of liquor at that point of time and the concern police officer has sent the referral letter addressing medical officer also filed along with medical report of accused consuming alcohol. Further the police report contains the statement of two witnesses which prima facie shows the involvement of the accused in the present offence.

8. Further, the accused has not demonstrated any legal ground for discharge. The police report contains sufficient material to proceed and the absence of C.A report is not sole ground for discharge if other prima facie material available against the accused. Therefore, I answer point no.2 also in negative.

As to point no.3:-

8. Thus, having regard to the facts and circumstances of the case and after giving anxious consideration to the propositions of law I am of the view that, the applicant/accused has not made out any grounds to discharge him. In the result, I answer point No. 1 & 2 in the negative and in answer to point No. 3 I pass the following order: -

ORDER

Application (Exh.8) is rejected.

Date:- 01/04/2025
Sakri

Sd/-
(**Milind R. Gadhave**)
Judicial Magistrate First Class,
Court No. 3, Sakri