

MHGA010005712021



IN THE COURT OF SESSIONS AT GADCHIROLI

(Presided over by Shri. Uttam M. Mudholkar)
(Additional Sessions Judge)

Sessions Case No. 53/2021

Rajat Sitaram Gurnule

**... Applicant /
accused no.6**

..Versus..

State of Maharashtra,
Through- PSO, P.S. Gadchiroli
Tahsil & Dist. Gadchiroli

... Respondent

Adv. Shri S.T. Thakare for the applicant/accused no.6
APP Shri N.M. Bhandekar for State

Oral Order Below Exh. 83

(Passed on 17.11.2021)

1] This is an application moved by accused no.6 Rajat Sitaram Gurnule for production of documents in view of hearing of his discharge application of Exh.8.

2] It is contended that for hearing of the discharge application of Exh.8 the documents filed along with present application are required to be produced on record and as such, it is prayed that permission be granted for production of the same.

3] The say of Learned APP Shri Bhandekar was called who has expressed his no objection for such production.

4] Perused the application, say, record of the case including the documents sought to be produced. Extensively heard the Learned Adv. Shri S.T. Thakare for applicant/accused no.6 and APP Shri Bhandekar. It was mainly submitted by Learned Adv. Shri Thakare for accused that the documents sought to be produced are material one and as such production of the same needs to be allowed. Per contra, Learned APP Shri Bhandekar, in contrast to his written reply, submitted that only the material produced by prosecution can be looked into at the stage of framing of charge and not otherwise and as such he requested to pass the suitable legal order.

5] I have carefully considered the submissions and record. The present accused along with his associates have been charge-sheeted for allegedly committed offences under Sec.143, 149, 188, 290, 291, 353 & 341 of Indian Penal Code and Sec. 135 of the Bombay Police Act. The documents which are sought to be produced are listed by the applicant/accused and they can be reproduced as under :-

1. Letter dated 17.10.2018 of District Magistrate, Gadchiroli
2. Letter dated 13.04.2018 issued by Public Information Officer-cum-Dy.S.P.
3. The information collected through Right to Information Act, 2005
4. Noise Pollution Rules, 2000
5. Local newspaper by name Punyanagari
6. Application of Exh.84 seeking permission to raise additional grounds in the discharge application of Exh.8

6] It is clear from the contents of the application of Exh.83 itself that these documents are sought to be produced by accused no.6 by way of his defence for hearing of his discharge application of

Exh.8. So far as the discharge under Sec.227 of Cr.P.C. is concerned it is the settled position of law that while considering such application the Court has to ascertain whether there is prima facie case made out by the prosecuting agency for framing charge or not, and for that purpose the material on record i.e. the charge-sheet is required to be considered. There is no scope at all for the accused to tender his evidence, either oral or documentary, to displace the case reflected in the charge-sheet. The accused has every right to make out his such defence, if any, only during the course of trial and not otherwise. Therefore, having regard to this legal position the present application needs to be considered. Among the documents which are sought to be produced only document at Sr.No.4 which is a xerox copy of rules and document at Sr.No.6 which is application raising additional grounds in the discharge application of Exh.8 already tendered on record, cannot be treated as documents of defence of the accused and therefore, only to that extent the production of the documents can be considered. Hence, the application deserves to be partly allowed. Accordingly, following order is passed.

ORDER

- 1] Application of Exh.83 is partly allowed as under -
 - A] The production of document at Sr.Nos. 4 and 6 of the list annexed to the application of Exh.83 is allowed.
 - B] The prayer of production of remaining documents stands rejected.

Date : 17.11.2021

(U.M. Mudholkar)
Additional Sessions Judge,
Gadchiroli