

MHND010024672024 	<u>IN THE COURT OF ADDITIONAL SESSIONS</u> <u>JUDGE-2, NANDED</u> Criminal Revision Petition No.62/2024 Datta -Vs- The State of Maharashtra and anr.
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ORDER BELOW EXH. 05

The petitioner by this application has sought stay to the order below Exh. 3 in R.C.C. No. 43/2022 dated 31.07.2024 of Judicial Magistrate First Class, Mudkhed.

02. Heard Ld. advocate for petitioner. He argued that, the impugned order below Exh. 3 is illegal, improper as the APP had no locus standi to file such application. Moreover, the application is filed at pre-mature stage under section 319 of the Code of Criminal Procedure. Also, as the petitioner is public servant and no sanction prior to prosecuting him is obtained as required under section 197 of the Code of Criminal Procedure, so on this ground the order below Exh. 3 be stayed till decision of the revision.

03. Gone through the application and petition. It can be seen that, in R.C.C. No. 43/2022 application Exh. 3 was filed by APP for adding the petitioner as co-accused in the said case. The said application was filed under section 319 of Cr.P.C. The record shows that, as per the case of prosecution the petitioner was working as a public servant of State Excise Department at the time of alleged offence and they have aided the accused for creating false document.

04. The record shows that, admittedly the petitioner was public servant at the time of the alleged offence, so the fact that whether sanction under section 197 of Cr.P.C is required or not will have to be considered during the full fledged hearing of the revision. However, the fact that has come on record is that the trial in the said case has not yet commenced and application was moved by prosecution under section 319 of Cr.P.C. So, in these circumstances considering the stage of the case when the application Exh. 3 was filed by the prosecution and the fact that the petitioner i.e. proposed accused is a public servant, it will be justified to stay the impugned order below Exh. 3 till appearance of the respondent. So, I proceed to pass following order.

ORDER

1. The order below Exh. 3 in R.C.C No. 43/2022 dated 31.07.2024 is hereby stayed till the appearance of respondents.
2. Issue notice of this application to respondents.
3. Inform the learned Trial Court accordingly.

sd/-

(R.M. Shinde)

Additional Sessions Judge-2,
Nanded.

Date : 28.08.2024

CERTIFICATE

I affirm that the contents of this P.D.F. file Order are same word to word, as per the original Order.

Name of the Stenographer : Muley S.M.

Court Name : Additional Sessions Judge -2, Nanded

Date of Order : 28.08.2024

Order signed by the

Presiding Officer on : 28.08.2024

Order uploaded on : 30.08.2024