

MHRG010013742023



Sessions Case No. 42/2023

State of Maharashtra
through PSO Pen Police Station
V/s.
Lahu Eknath Patil

:: ORDER BELOW EXH. 11 ::
[Passed on 16.06.2025]

This is an application for discharge under section 227 of Cr. P. C. by applicant/accused Lahu Eknath Patil in Sessions case no.42/2023, (Cr. No.193/2023 registered with Pen Police Station) under section 307, 341, 504, 506 of Indian Penal Code.

2. The Prosecution case in brief is as under -

Informant Shri. Anant Kamal Mhatre is resident of Datta Krupa Niwas behind Sahara Apartment, Sapt Asara Nagar, Tal. Pen, Dist. Raigad. Neighboring house is of informant sister. Accused is the husband of informants sister. There is a lane in between the house of informant and accused. Accused claims exclusive right over the said lane and therefore, there is enmity between them.

3. Informant left his wife Sanjivani and daughter-in-law Chaitali Mhatre for Samarth Baithak at Samarth Nagar and parked Rickshaw near the house. Accused Lahu came armed with sickle and abused informant. He gave fist blow on the chest and kicked

the informant and pushed him down. He sat on his chest and threaten him to kill and gave blow of sickle on the right side of the neck, but the informant avoided the blow with his left hand. He received injury to 4 fingers of his left hand. Informant's two sons Aatish and Pratik came to rescue him. Accused ran away with the sickle. Informant was taken for treatment to the hospital. Informant gave report of the incident to Pen Police Station. Pen Police Station registered the crime no. 193/2023 against accused under Section 307, 341, 504, 506 of Indian Penal Code.

4. After completion of the investigation, IO filed the charge-sheet against the accused before the Ld. Judicial Magistrate Firs Class at Pen. The offence punishable under section 307 of Indian Penal Code is exclusively triable by the Sessions Court. The said case is committed to Sessions Court and in routine course, it is allotted to this Court.

5. Applicant has contended in this Criminal Application that there is no sufficient ground for proceeding against the accused and hence accused be discharged under section 227 of Cr.P. C.

6. The prosecution filed say at Exh.12 contending that the informant was assaulted by accused with the help of lethal weapon i.e. sickle. In an attempt to protect himself from blow of sickle on right side of his neck, by left hand, he sustained serious injury to his palm and fortunately he survived otherwise he would have sustained serious injury to his head and neck which could have endangered his life. He was hospitalized for many days for medical

treatment. Thereafter, he was again operated by he medical experts as he had lost his sensation of his palm. Investigation Officer recorded statement of relevant witnesses. Obtained the medical papers, recovered the weapon i.e. sickle at the instance of accused. The medical evidence corroborates with the informant. There are two eye witnesses of the incident and that there is sufficient ground to proceed against the accused and prayed for rejection for discharge application.

7. Heard both sides. Perused discharge application at Exh.11 and say at Exh.12. Perused charge-sheet. The following points arise for my determination and I record my findings thereto with reasons thereon as under :-

Sr. No.	Points	Findings
1.	Whether accused is entitled for discharge under section 227 of Cr.PC in the Sessions Case no.42/2023 ? No
2.	What Order?As per order below.

Reasons

As to point no.1 :-

8. Ld. Advocate Smt. Mayura More has submitted that the allegations regarding the incident does not take the offence within the ambit of section 307 of Indian Penal Code and that even taking the allegations as it is, the offence of attempt to murder cannot be established against the present accused. She further submits that ingredients of section 511 of Indian Penal Code regarding attempt to commit offence has to be fulfilled or established. There must be

actual attempt to murder and that there must be the direct nexus between the act of murder and the alleged act committed by the accused. She further submits that except the statement of complainant there is no other independent witness in the case. The medical certificate shows the injury to the injured is simple in nature. She has further contended that, the statement of relatives are hearsay in nature. There is no direct evidence against accused and considering the records of the case and documents submitted therewith, there are no sufficient ground for proceeding against accused under section 307 of Indian Penal Code and the accused be discharged from the offences alleged against him and also placed reliance on judgment of Hon'ble Bombay High Court (M. L. Tahaliyani-J) in case of **Rajesh Damodar Ingole V/s. State of Maharashtra, reported in 2013 ALL MR (Cri) 3377.**

9. Ld. DGP reiterated the contentions raised by prosecution in its reply at Exh.12 and prayed for the rejection of the discharge application.

10. Perused the record. To appreciate the arguments, I would first like to refer to section 227 of Cr.P.C.

Sec. 227 of Cr.P.C.

If, upon consideration of the record of the case and the documents submitted therewith, and after hearing the submissions of the accused and the prosecution in this behalf, the Judge considers that there is not sufficient ground for proceeding against the accused, he shall discharge the accused and record his reasons for so doing.

11. In view of Sec. 227 of Cr. P.C. the test to decide the application is whether the sufficient ground for proceeding against the accused is made out or not ? Here the informant has been attacked by the accused with sickle. He gave fist blow on the right side of the chest of the informant and lying him down said “ माझी जागा कशी घेतोस, तुला ठार मारतो” and gave blow of sickle on informants neck on right side but informant could stop his blow on the neck by left hand but sustained injury to four fingers of left hand and it was witnessed by two sons of the informant. The statement of the informant corroborates with the medical evidence on record. In order to prove offence u/sec. 307 of IPC, prosecution has to show ingredients of Sec. 307 of IPC are proved. In order to attract offence of 307 of IPC regarding attempt to murder, by accused, attempt to murder itself is sufficient. It is not necessary that, the prosecution has to prove grievous injury and that the injury would have endanger life of injured. It is not necessary that, there should be repeated attack so as to attract Sec. 307 of IPC. Had the informant not been successful in stopping attack on his neck, by his left hand the informant would have sustained the injury which may have endangered the life of the informant. There are two eye witnesses to the incident. Medical certificate is also available on record. Whether the intention was present or not is matter of trial. At this stage the court is required to see whether there is sufficient ground for proceeding against accused. On perusal of charge-sheet prima facie I am satisfied that, there is sufficient ground to proceed against the accused. Hence, I am not inclined to discharge accused u/sec. 227 of Cr. P.C. the Judgment cited supra by Adv. Mayura More is of no assistance to accused as the observations

therein are made in a matter wherein the accused has been convicted u/sec. 307 of IPC. Hence, I hold that, prima facie there is sufficient evidence on record to proceed against the accused and therefore I answer point no. 1 in negative. This court is ready to frame charge today itself in the Sessions Case to avoid delay in the progress of the matter.

As to point no. 2 :-

12. In view of the findings recorded above in answer to point no. 1, I proceed to pass the following order.

ORDER

1. Discharge Application at Exh. 11 is rejected.

Alibag
Dt. 16.06.2025

(R. D. Sawant)
Sessions Judge, Raigad-Alibag.

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 Stenographer : Shri. A. A. Nakhawa (Grade- III)

Court : Principal District Judge,
Raigad-Alibag.

Date of Order : 16.06.2025.

Order signed by the
Presiding Officer on : 18.06.2025.

Order uploaded on : 18.06.2025.