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Exhibit No.25

**IN THE COURT OF THE METROPOLITAN MAGISTRATE
18TH COURT, GIRGAON, MUMBAI.**

(Presided over by Shri Krishnarao K. Patil)

JUDGMENT

(Under Section 355 OF CR.PC.)

- 1) The serial number of the case : 444/PW/2019
- 2) The date of the commission of : 16/10/2019
the offence
- 3) The name of the informant (if : The State (Through Dr. D. B.
any); Marg Police Station, Girgaon,
Mumbai)
- 4) The name of the accused : Jannatali Ahmed Qureshi, Age 34
person, and his parentage and years, Occ. Nil, R/o.Bakda Lane,
residence; Play House Junction, M.S.Ali
Road, Grant Road (E), Mumbai.
- 5) The offence complained of or : Under Sections 4, 25 Arms Act
proved; and under section 37(i)(a), 135 of
Maharashtra Police Act
- 6) The plea of the accused and his : Accused pleaded not guilty.
examination (if any);

- 7) The final order : As per final order
- 8) The date of such order : 04/09/2023
- 9) The reasons for the decision : The reasons for the decision are as under :-

Ld. APP. for the Prosecution : Shri Atif Shaikh
Ld. Advocate for the accused : Shri Prem Avichal

JUDGMENT
(Delivered on 04/09/2023)

1] The prosecution case is that on 16/10/2019 at about 6.40 hours in front of Abasi Building, P.B. Marg, Grant Road (E), Mumbai accused was found possessing knife during the period of Loksabha Election 2019 and he was carrying 21 inches sharpened edged chopper having wooden handle of 5 inches which is capable of being used for causing physical violence and thus accused has thereby committed an offence punishable under sections 4, 25 Arms Act and under section 37(i)(a), 135 of Maharashtra Police Act.

2] Hence, the Investigation Officer Vijaykumar Sarnaik investigated into the matter and after completion of investigation charge-sheet is filed by the police of Dr. D. B. Marg Police Station under sections 4, 25 Arms Act and under section 37(i)(a), 135 of Maharashtra Police Act against the accused.

3] Charge Exh.4 under sections 4, 25 Arms Act and under section 37(i)(a), 135 of Maharashtra Police Act is framed against the accused which is read over to him in vernacular to which he pleaded not guilty vide plea Exh.5. Defence of accused is of total denial and of false implication.

4] Heard Ld. APP Shri Atif Shaikh for the prosecution and also heard Shri Prem Avichal Ld. Counsel appearing for accused. Perused material. Considered submissions.

5] Following points arose for my determination and I have recorded my findings to each of them for the reasons stated here under :

Sr. No.	Points	Findings
1)	Does the prosecution prove that, on 16/10/2019 at about 6.40 hours in front of Abasi Building, P.B. Marg, Grant Road (E), Mumbai accused was found possessing knife during the period of Loksabha Election 2019 and thereby committed an offence punishable under section 4, 25 of Indian Arms Act?	... <u>In negative.</u>
2)	Does the prosecution prove that, on the above date, time and place accused was carrying 21 inches sharp edged chopper having wooden handle of 5 inches which is capable of being used for causing physical violence and thereby committed an offence punishable under section 37(i)(a) of Maharashtra Police Act?	... <u>In negative.</u>
3)	What order?	... <u>As per final order.</u>

REASONS

As to points no.1 and 2 :

6] In all, to prove its case, the prosecution has examined as many as 4 witnesses all of whom are the only police witnesses including informant Shivaji Kangane P.W.No.1 at Exh.7, Dattatray Yadav P.W.No.2 at Exh.12, Vijay Jadhav P.W.No.3 at Exh.16 in the capacity of witnesses to the incident and Vijaykumar Sarnaik P.W.No.4 in the capacity of investigation officer. The seizure / personal search panchanama Exh.8, report Exh.9, seized chopper Article A Knife Article B and Order promulgated and true copy of entry to station diary are given Exh.14 is documentary evidence of record. Bare prosecution evidence shows that no panch witness on seizure panchanama is made available and is examined. Though all prosecution witnesses have stated that a chopper Article A and a knife Article B was found in possession of accused on given date time and place, all prosecution witnesses are only the police persons working with same police station. Therefore, when none of the panch is examined, it would be not proper to rely upon the testimony of all police officers to base a conviction against the accused for the offence which totally depends upon the seizure of knife and chopper and proof of the same beyond reasonable doubt. Therefore, the prosecution case is rendered highly doubtful. It is because the cross examination of these witnesses shows that the period of the incident was the period of election. The suggestion given to them by the defence is that to complete the quota of cases false case against the accused is filed. This suggestion though denied by all police

personnel, defence is able to probabalise the another possibility that cannot be totally ruled out. Furthermore, according to prosecution witnesses the incident has taken place on 16/10/2019 some what about 8.00 p.m. as per the deposition of P.W.No.1. It was not that high night at 8.00 p.m. particularly in city like Mumbai and these are peak hours of traffic. The evidence of P.W.No.1 also shows that it was footpath on the Grant Road, Mumbai. Under these circumstances, the panch witness and independent witness would have been made available. However, nothing of this sort is done by prosecution which creates shadow of doubt on the prosecution case. Therefore, evidence of prosecution is not sufficient and credible to prove that at the given time and place the accused was found in possession of two weapons Article A and B during continuonce of order promulgated under section 37(i)(a) punishable under section 135 of Maharashtra Police Act and section 4/25 of the Indian Arms Act. Therefore, I answer point no.1 and 2 in the negative.

As to points no.3 :

7] In view of my findings to point no.1 and 2 in the negative, accused deserves to be acquitted for offences punishable under section 37(i)(a) punishable under section 135 of Maharashtra Police Act and section 4/25 of the Indian Arms Act. I have been passing this judgment in the absence of the accused for the reasons detailed in order below Exh.1 dated 04/09/2023 i.e. on today. Therefore, I proceed to pass an order to make continue the bail bonds of the accused or cash surety to be in force

until expiration of six months from today. Therefore, in answer to point no.3, I pass the following order:-

ORDER

- 1] Accused Jannatali Ahmed Kureshi is hereby acquitted of the offences punishable under sections 37(i)(a) punishable under section 135 of Maharashtra Police Act and section 4/25 of the Indian Arms Act vide Section 248(1) of The Code of Criminal Procedure.
- 2] His Bail bonds stand cancelled.
- 3] The bail bonds and / or cash surety furnished by the accused earlier during the trial shall remain in force till expiration of six months from today by this order towards deemed compliance of section 437 (A) of the Code of Criminal Procedure.
- 4] The muddemal property chopper Article A seems to be the only seized property from column no.10 of charge-sheet Exh.1, is an weapon of offence and is therefore, be confiscated to the state, after the appeal period is over.
- 5] The accused is set at liberty.
- 6] Dictated and Pronounced in Open Court today.

Place : Girgaon, Mumbai.
Date : 04/09/2023.

(Krishnarao K. Patil)
Metropolitan Magistrate,
18th Court, Girgaon, Mumbai