

Nalawade

FARAD CONTINUATION SHEET No.

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

CRIMINAL APPLICATION NO. 859 OF 2016
IN
ANTICIPATORY BAIL APPLICATION NO.1304 OF 2016

Krishna Chamankar and ors. Vs. State of Maharashtra and anr.

Office Notes, Office Memorandum of Coram, appearances, Court's orders or directions and Registrar's orders	Court's or Judge's orders
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Mr. Vikaram Choudhary, Sr. Advocate with Sanjay Agarwal
and Ms. Neha Ahuja for the applicants.

Mrs. Rutuja Ambekar APP for the Respondent-State.

CORAM :A.S.GADKARI, J.

DATE : 21st October, 2016

P.C.

1. This is an application for clarification of order dated 22.9.2016 passed by this Court. The record reveals that in pursuance of the order dated 22.9.2016 the applicant preferred an application before the Special Court, Mumbai below Exh.136. The said application below Exh. 136 came to be rejected by the learned Special Judge by its order dated 6.10.2016 on the ground that the applicants did not file the said application for their appearance before the said Court without any conditions and thus have not complied with the provisions of Section 88 of the Cr.P.C. and the same is in contravention of the provisions of Section 88 of the Cr.P.C.

2. The learned Senior Counsel appearing for applicants submitted that co accused namely Shayam Malpani had approached this Court against the rejection of his application for cancellation of non bailable warrant by preferring Criminal Application No.1074 of 2016 and the co-ordinate Bench of this Court (Smt. Revati Mohite Dere, J.) had directed the said accused to appear before the Special Court on the stipulated date to pursue his application. The learned Senior counsel further submitted that the said co-accused did appear before the learned special Judge and the Special Court has allowed his application by its order dated 20.10.2016. He therefore, on instructions, seeks leave to withdraw the present application with liberty to file fresh application for cancellation of non bailable warrant before the Special Court and the application under Section 88 of the Cr.P.C. Leave and liberty granted.

The learned Senior Counsel on instructions submitted that the applicants would prefer application under Section 70 sub section (2) read with section 88 of the Cr.P.C. before the Special Court on 25.10.2016. If the applicants files such an application on 25.10.2016, the learned Special Judge is hereby directed to decide the same preferably on the same day. If for any reason not attributable to the applicant, the learned Special Judge is unable to decide the application on that day, the learned Special Judge to consider granting of interim relief to the

applicants.

3) It is made expressly clear that this court has not adverted to the merits of the present application and the application is allowed to be withdrawn with the aforesaid liberty in view of the facts mentioned in the aforesaid paragraphs.

4) Till 25.10.2016, the interim relief granted earlier shall remain in force.

5) Application is disposed off as withdrawn with the aforesaid liberty.

(A.S.GADKARI, J.)