

FARAD CONTINUATION SHEET NO.

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
APPELLATE SIDE, BENCH AT AURANGABAD

Office Notes, Office
Memoranda of Coram,
appearances, Court's
orders or directions
and Registrar's orders

Court's or Judge's orders

CRIMINAL APPLICATION NO. 1135 OF 2017

MANOHAR S/O MAROTIRAO WAVALE
VERSUS
THE STATE OF MAHARASHTRA

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Advocate for applicant: Mr. A.R. Gaikwad
APP for respondent/State: Mr. D.R. Kale

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CORAM: S.S.SHINDE & K.K. SONAWANE, JJ.
Dated: March 27, 2017

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Heard the learned counsel appearing
for the applicant and the learned A.P.P.
appearing for the respondent/State.

2. The learned counsel appearing for the
applicant submits that, though the name
of the applicant is mentioned in the
charge-sheet, nevertheless, none of the
witnesses have attributed any overt act
to the applicant. He submits that, even
if the allegations in the first
information report are taken as it is,

the name of the applicant is not mentioned. He submits that, even if the entire material collected by the Investigating Officer during the course of investigation is considered in its entirety, an alleged offences are not disclosed against the applicant. The first information report and the charge-sheet is filed on the basis of the false allegations against the applicant out of political rivalry. He invites our attention to the contents of the charge-sheet and its accompaniments and submits that, the application may be allowed.

3. On the other hand, the learned A.P.P. appearing for the respondent/State submits that, the charge-sheet is already filed. The co-accused named the present applicant. During the course of investigation, the Investigating Officer has collected sufficient information/material and on the basis of the said material, the trial can proceed against the applicant. Therefore, he submits that, this Court may not entertain the prayer for quashing the F.I.R.

4. We have heard the learned counsel appearing for the applicant and the

learned A.P.P. appearing for the respondent/State. With their able assistance, we have carefully perused the contents of the charge-sheet, its accompaniments and also the statements of the Investigating Officer and one co-accused Mr. Rohit Vedpathak. In our opinion, when the charge-sheet is filed and the name of the applicant is mentioned in the charge-sheet, prima facie the involvement of the applicant is established, in as much as, he sold the alleged weapons namely the pistol and three bullets to co-accused. When the concerned Investigating Officer went to the house of the applicant, the applicant was not found at his residence. In our opinion, considering the prayer of the applicant for quashing the charge-sheet would amount to appreciation of evidence of the Investigating Officer and also the co-accused. Such exercise is not desirable. In that view of the matter, we are not inclined to entertain the application. Hence the application stands rejected. The observations made hereinbefore are, prima facie, in nature.

5. At this stage, the learned counsel appearing for the applicant submits that,

the applicant will file the application for discharge before the concerned Court within two weeks from today. In case, the applicant files such application for discharge before the concerned court within two weeks from today, the concerned Court shall decide the said application, as expeditiously as possible, and preferably within eight weeks from filing of such application on its own merits and in accordance with law and in case the charge is not already framed. We make it clear that, liberty granted today will be available for the applicant for two weeks from today.

(K.K. SONAWANE, J)

(S.S. SHINDE, J)