

FARAD CONTINUATION SHEET NO.
IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE SIDE

ANTICIPATORY BAIL APPLICATION NO. 217 OF 2017

Anil Baburao Bhosale Vs. State of Maharashtra

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

Court's or Judge's orders

Mr. Rajiv Patil, Senior Counsel a/w Prashant Mohan Patil for applicant.
Mr. Sandeep Mourya for Intervener/First Informant.
Mrs. Veera Shinde, APP for State.

CORAM : A.S. GADKARI, J.
DATE : 26th April 2017.

P.C.:

- 1] By a reasoned Order dated 15th February 2017, the applicant was granted interim relief.
- 2] Today at the time of hearing of the Application, a question was put to the Public Prosecutor whether the mobile allegedly used by the applicant was seized by the police or not. The learned APP on instructions from the Officer Mr. Madhu Shinde, A.P.I. submitted that the mobile is not yet seized by the Investigating Agency. However, after perusing the case diary, it reveals that the said mobile phone has already been seized by the police under a panchanama. It appears that due to the pressure and/or persuasion of the first informant, the Investigating Officer has made the said false statement through the learned APP. In view of the same, the concerned Investigating Officer was directed to file his personal affidavit in that behalf.

3] Accordingly, the matter was kept at 3.00 p.m. At 3.00 p.m. the concerned Investigating Officer Shri Madhu Shinde through the learned APP submitted his affidavit dated 26.4.2017 thereby admitting his mistake and has tendered unconditional apology. The said affidavit is taken on record and marked "X".

4] May that it as may, after perusal of the first information report and other documents of investigation, it appears that the offence as alleged under Section 376 of the Indian Penal Code against the applicant was a consensual act between two adult persons. In view thereof, this Court is of the opinion that the custodial interrogation of the applicant for further investigation is not necessary.

5] The interim relief granted by Order dated 15th February 2017 is hereby confirmed. However the applicant is directed to attend the Investigating Officer as and when called for between 11.00 a.m. to 1.00 p.m. and to join the process of investigation till submission of chargesheet.

6] The application is allowed in the aforesaid terms.

(A.S. GADKARI, J.)