

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
NAGPUR BENCH, NAGPUR.

CRIMINAL WRIT PETITION NO.203/2017

Navalkishor s/o Shyamsundar Soni ..vs.. The State of Maharashtra thr. PSO
P.S. Ambazari, Nagpur

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

Court's or Judge's orders.

Mr. Vinay Dahat, Advocate for petitioner.
Ms. T. Udehsi, A.P.P. for respondent-State.

CORAM : V.M. DESHPANDE, J.
DATED : AUGUST 3, 2017

Heard learned counsel for the petitioner in extenso. The application for discharge is rejected by the learned court below. Against that the present writ petition is filed. The charge-sheet which is annexed along with the application clearly spells out a case against the present applicant. The degree of evidence for acquittal and the degree for framing of charge is different as recently observed in paragraph 26 of the judgment in State of Rajasthan vs. Fatehkaran; 2017 (3) Mh. L. J. (Cri.) (SC) 444, which reads thus.

“26. The scope of interference and exercise of jurisdiction under Section 397 of Cr.P.C. has been time and again explained by this Court. Further, the scope of interference under Section 397 Cr.P.C. at a stage, when charge had been framed, is also

well settled. At the stage of framing of a charge, the court is concerned not with the proof of the allegation rather it has to focus on the material and form an opinion whether there is strong suspicion that the accused has committed an offence, which if put to trial, could prove his guilt. The framing of charge is not a stage, at which stage final test of guilt is to be applied. Thus, to hold that at the stage of framing the charge, the court should form an opinion that the accused is certainly guilty of committing an offence, is to hold something which is neither permissible nor is in consonance with scheme of Code of Criminal Procedure.”

In that view of the matter, the writ petition fails. The same is therefore dismissed.

JUDGE