

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

CRIMINAL WRIT PETITION NO.48 OF 2018

[Ganesh s/o Harikisan Chhangani .vs. State of Maharashtra and others]

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

Court's or Judge's orders

Shri R.J. Mirza, Counsel for the petitioner,
Shri B.M. Lonare, APP for the respondents-State.

CORAM : SMT. VASANTI A NAIK AND
MRS. SWAPNA JOSHI, JJ.

DATED : APRIL 20, 2018.

By this criminal writ petition the petitioner seeks a direction against the respondents to produce the seized property including the weapons in connection with the crime in the proceedings in R.C.C. No.328/2000.

It is stated on behalf of the petitioner that though the Assistant Public Prosecutor has made an application before the Hon'ble Judicial Magistrate, First Class, Warud for calling the seized weapons so that the complainant and the other witnesses of the prosecution would be confronted with the same, the trial court is not deciding the application. It is submitted that if the weapons of offence are not produced in the court, the family members of the victim will be greatly prejudiced.

We find that the petition is premature. The learned Judicial Magistrate, First Class, Warud would surely decide the application filed by the Assistant Public Prosecutor, as it is not decided till date. If an adverse order is passed, it would be for the Assistant Public Prosecutor to take appropriate action. However, a direction cannot be issued while exercising the jurisdiction under Article 226 of the Constitution of India to direct the prosecution to immediately produce the weapons in the trial court. The trial court is seized of the matter. We,

therefore, find that the trial court would take appropriate steps in the matter on the application filed by the Assistant Public Prosecutor.

In the result, we dispose of the criminal writ petition. Order accordingly.

JUDGE

JUDGE

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