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IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

CRIMINAL APPLICATION NO.77 OF 2018
IN
CRIMINAL APPEAL NO. OF 2016

The State of Maharashtra	... Applicant
Vs.	
Sandip Shriram Nakharekar & Ors.	... Respondents

Mr. J.P. Yagnik, APP for the Applicant.
Mr. Mohan Devkule I/b. Mr. Rakesh Bhatkar for the Respondent Nos.1 to 5.

CORAM : A.S.OKA AND
 A.S. GADKARI, JJ.

DATE : 21st JANUARY 2019.

P.C. :

1 Heard the learned APP for the applicant. Leave is granted. Appeal is admitted. There shall be action against the respondent under section 390 of the Code of Criminal Procedure, 1973. However, the concerned trial Court shall immediately enlarge the respondents on appropriate bail.

2 On the earlier date, our attention was invited to the observations made by the learned trial Judge in paragraph 15 of the judgment. We had, therefore, sought a clarification from the learned APP

on the question whether any action has been initiated against the concerned Investigating Officer for not examining the important witness. We also expressed our prima facie view that the said omission is with the intention of giving undue advantage to the accused. The learned APP states that he has addressed a letter dated 7th January 2019 to the Director General of Police and the Secretaries of Home Department as well as the Law and Judiciary Department. We direct the said three Authorities to look into the said letter and convey their decision to the office of the Public Prosecutor. If the said Authorities failed to respond to the letter addressed by the learned APP, serious view will have to be taken. To enable the learned APP to make a statement on this aspect. We direct that this application shall be listed under the caption of “directions” on 11th February 2019.

(A.S. GADKARI, J.)

(A.S.OKA, J.)