

FARAD CONTINUATION SHEET  
IN THE HIGH COURT OF JUDICATURE OF BOMBAY  
BENCH AT NAGPUR  
CRIMINAL APPLICATION NO.2665/2009  
(Vilas Mahadeorao Harde vs. State of Maharashtra )

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Office Notes, Office Memorandum of Coram Court's or Judges Order  
appearances, Court's orders of directions &  
Registrar's orders.  
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Mr. Anil Mardikar, Adv. for the applicant  
Mrs. S.S.Wandile, APP for Respondent-State

**CORAM: A.P. BHANGALE,J.**

**DATED: 31st July, 2009.**

1. Heard Mr Anil Mardikar, the learned Advocate for the applicant and Mrs. S.S. Wandile, learned APP for the Respondent-State.

2. By this application, the applicant prayed for grant of bail in connection with Crime No.203/2009 registered at Nandanvan Police Station, Nagpur for offence punishable under sections 307, 294, 506-B of the Indian Penal Code ; read with section 3/25 of the Arms Act and Section 135 of the Bombay Police Act. It is contended on behalf of the applicant that the applicant himself had reported the incident to Police Inspector, Nandanvan Police Station, Nagpur and informed that after expiry of the period of possession of Mangal karyalaya (i.e. Marriage Hall) at Nandanvan, he had intended to hand over the possession of the Marriage Hall to Nagpur Improvement Trust. At that time, three persons, by name, Dilip Dhote, Tumsare and Arun Tikle ran towards him. They were known to have a tendency of *goodaism*. They came in front of the NIT and demanded fans, tube-lights and when applicant refused, he was about to be attacked by them. In that event, he had fired two rounds in the air from his licensed revolver. However, one Chandrashekhar Tumsare, one of those three persons, made a report to Police Inspector, Nandanvan Police Station, Nagpur as if the applicant had taken out revolver, abused them and fired towards said Tumsare; whereas

the bullet passed from near his ear and that he prevented the applicant from firing, but fire went in the air. According to said Tumsare, Arun Tikle, Kishor Balbudhe and Dilip Dhote had restrained the applicant as also one Bhandarkar. Thereafter, the applicant left along with some persons. According to learned Advocate for the applicant, the applicant was taken into Police custody during the period between 2.7.2009 and 6.7.2009 and thereafter was remanded to judicial custody and since then he is in jail. Learned counsel further submitted that the applicant is ready to cooperate with the investigation. Learned counsel placed reliance on the ruling in **Parsuram Pandey vs. State of Bihar reported in AIR 2004 SC 5068** to contend that chances of conviction of the applicant ultimately are remote in the peculiar facts and circumstances of the present case. According to the learned counsel, the intention to cause death cannot be imputed to the applicant in view of the fact that he himself had reported the incident and he had a good case to defend himself against the attack by three persons, by firing in the air without any intention to cause injury to anybody.

3. On the other hand, the learned Additional Public Prosecutor Smt. S.S.Wandile, contended that the accusation is serious for offence punishable under sections 307, 294, 506-B of the Indian Penal Code ; read with section 3/25 of the Arms Act and Section 135 of the Bombay Police Act; and that the applicant was admittedly in possession of revolver and he had fired from his revolver. She, thus, prayed for rejection of bail on the ground that there is evidence of various witnesses against the present applicant, which would reveal that he had attempted to commit murder of the complainant.

4. It is not in dispute that the applicant himself had reported about the incident, that he had fired from his revolver in the air to defend against the possible attack from 4/5 persons. The question as to whether the plea of private defence is meritorious or not, will have to be considered at the time of trial. Under these circumstances, it would not be proper to detain the applicant in jail, pending the trial. The applicant, therefore, be

released on conditional bail as follows :-

The applicant be released on bail in connection with Crime No.203/2009 reported at Nandanvan Police Station for offence punishable under sections 307, 294, 506-B of the Indian Penal Code ; read with section 3/25 of the Arms Act and Section 135 of the Bombay Police Act, provided that the applicant shall execute PR bond in the sum of Rs. 25,000/- with one or more sureties in the like amount, and shall cooperate with the investigation as and when required by the Investigating Officer; provided further that he shall not carry any weapon and shall not commit any crime while on bail and shall not communicate with any witness or witnesses concerned with the case. The applicant shall inform his fixed address with phone number, if any, and change in the address to the Investigating Officer and shall attend on each date of hearing of the case before the trial Court. *Humdast* granted.  
Criminal Application stands disposed of.

**JUDGE**

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