

**ORDER BELOW EXH.4**  
**(Passed on 10.03.2026)**

- 1) The accused No.1 Manveer Harjit Saluja, No.4 Gurprit Harjit Saluja and No.5 Ku. Nimishka Harjit Saluja have filed instant application to discharge them from the present case.
- 2) Accused persons are contended that there is no any evidence under section 160 of the IPC against accused persons. Further, there is an endorsement that the alleged weapon was toy weapon and as such the questionnaire with regard to whether the rounds in Exh.A are alive or not has been discarded by RFSL Ballistic Department, Nagpur. The accused persons are denying their very presence on the spot of occurrence. As per facts and circumstances of the present case on its face it would not read any conviction of accused persons. The prosecution has failed to made out their case. Lastly, accused persons requested to discharge them from this case.
- 3) On the other hand, learned APP has filed his say at Exh.07. As per the prosecution, the accused persons have committed the alleged offences. Case is made out against them. There is sufficient evidence to frame charge of accused persons. Lastly, he requested for rejection of application.
- 4) Perused the discharge application and say filed by APP. I have gone through with the charge-sheet placed on record.
- 5) Heard learned Advocate for accused and learned APP for the prosecution.

6) It is the case of prosecution that, the informant Rahul Madhukar Wanjari, Probationary PSI, PS Sitabuldi was working as Night Officer from 27.03.2024 at 9.00 p.m. to 28.03.2024 at 09.30 p.m. in the said police station. At that time, he received information that in front of Wellness Forever Medical, Khare Town, Dharampeth, Nagpur the quarrel is taking place and there is a firing. So, the informant Shri Wanjari with other police personals had been to the spot of occurrence and saw that 5 to 6 people namely Nimishka Saluja, Guruprit Saluja, Aris Khan and Awaiz Khan were there. The accused Manvir Saluja was having the Revolver at his waist. The scuffling was going on among them. The informant and other police constable separated their scuffle. During this the accused Manveer Saluja was found with Iron Revolver without having any valid licence of the possession. On the basis of report, the crime No.246/2024, u/sec. 160 and 3/25 of the Arms Act, 1959 and under section 135 of the Maharashtra Police Act came to be lodged against accused persons.

7) The accused persons contended that such Revolver does not comes in the category of restricted arms and ammunition. In support of his contention, he filed a notification dated 15.07.2016 of the Ministry of Home Affairs. However, such Revolver comes in the category of restricted arms in the schedule I(c)(iii) of the above notification. Further, accused persons also relied on the case laws :-

***(i) Monit @ Chiku Vs. The State of Maharashtra and Ors of Bombay High Court in 2025(1) AIR Bpm R (Cri) 525,***

***(ii) Dinesh Ramsevak Prajapati and another Vs. State of Maharashtra of Bombay High Court in 2016 ALL MR (Cri) 1054 : 2016(2) AIR BomR (Cri) 355 : 2016(3) BomCr (Cri) 284: 2016 SCC Online Bom 888,***

*(iii) Krishna Singh Vs. The State of Bihar of Patna High Court in 2000(3) EcrC 1755 : 2001(2) BLJud 108 : 2000(3) PLJR 275,*

*(iv) Satish Kumar Vs. State of Haryana of Punjab and Haryana High Court in 2024 NVPHHC 77941,*

*(v) Srirup Nandi Vs. State of Kerala of Kerala High Court in Crl. MC NO.4544 of 2021,*

*(vi) Amritha Pavanan Vs. State of Kerala of Kerala High Court in Crl. MC. No.972 of 2021,*

*(vii) Rajendra Sahu Vs. The State of Bihar of Patna High Court in 1975 BBCJ 584*

*(vii) Amrendra Singh and another Vs. State of Bihar of Patna High Court in 1987 EcrC 791*

8) I have gone through with the aforesaid case laws of the Hon'ble High Court. Wherein, there is common ratio that the prosecution cannot be launched under section 3 of the Arms Act without sanction, under section 39, of the District Magistrate. Therefore, cognizance cannot be taken without valid sanction under section 39 of the said Act.

9) In the case at hand, the prosecution has filed the copy of order of commissioner of police dated 15.03.2024 with the charge-sheet. Wherein, the said order of the Commissioner of Police was come in force during 19.03.2024 till 02.04.2024 and the report in the present case came to be lodged on 28.03.2024. Further, there is allegation against accused persons for the commission of offence punishable under section 160 of the IPC for which the sanction is not required. However, the Advocate for accused persons relied on the case law of *i) Rajesh and ors*

*Vs. The State of Maharashtra and ors of Bombay High Court in 2025 NCBH-NAG 7139:2025 ALL MR (Cri)3088 : 2025(3) BomCR (Cri) 626 : 2025(5) MhLJ (crl) 191 and ii) Nadeem Ajj Pathan and another Vs. The State of Maharashtra and another of Bombay High Court Bench at Aurangabad in Criminal Application No.3624 of 2023.* Wherein the Hon'ble High Court held that to attract the offence of Affray under Section 160 which defined under section 159 of the IPC, mere fighting on a public place is not sufficient to constitute the offence of Affray unless it is accompanied by disturbance to public place. In the case at hand, the alleged offence was occurred in front of Wellness Forever Medical Stores, Khare Town Dharampeth, Nagpur. The said place of occurrence comes in the Nagpur City which is popularly known as locality place. At the same place, accused persons were scuffling between each other. Therefore, with due respect, I am of the view that aforesaid case laws will not helpful to the accused persons.

10) Prima-facie the case is made out against accused persons. There is sufficient material to proceed further against them. The evidence is sufficient to frame charge against the accused. I would like to mention here that the accused persons will be get sufficient opportunity to put forth their defence during course of trial. However, at this stage, there is sufficient evidence to show involvement of accused persons in this case. Therefore, the application of the accused deserves to be rejected. Hence, I proceed to pass the following order:-

**ORDER**

The application at Exh.4 is rejected.

Dt.10.03.2026

(V. S. Raut)  
Judicial Magistrate First Class,  
(Court No.2), Nagpur.