

FARAD CONTINUATION SHEET NO.
IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD.
APPELLATE SIDE JURISDICTION

Office Memoranda of appearance, directions and orders.	Notes, of Court's orders and Registrar's	Office Coram, orders or Registrar's	Court's or Judge's orders.
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CRIMINAL APPLICATION NO. 424 OF 2015
 WITH APPLN/816/2015 IN APPLN/424/2015

HUSENBEEN HASSAN MUHAMMAD A
 VERSUS
 THE STATE OF MAHARASHTRA

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 Advocate for Applicant : Mr. Chatterji Joydeep.
 APP for Respondent: Mr. A. V. Deshmukh.
 Advocate for assist APP: Mr. A. R. Kale, Advocate h/f Mr.
 R. B. Deshmukh.

CORAM: T. V. NALAWADE, J.
DATED: 20th FEBRUARY, 2015.

PER COURT:

1. The application is filed for bail. Both the sides are heard.
2. The previous application of the present applicant was rejected by this Court on merit by order dated 7th January, 2014. This order was challenged by the applicant by filing Special Leave to Appeal bearing No.3093 of 2014 in Apex Court. The Special leave Petition was dismissed by the Apex Court on 30th June, 2014. In view of this circumstance, it was necessary for

the applicant to show that there has been change in circumstances.

3. There is a material to show that the present applicant made assault on the injured complainant with knife and two injuries were inflicted by him. One injury was inflicted on the chest and other on the neck. When the attempt of third injury was made the knife remained inside the neck and it stuck in the same condition. The complainant was shifted to Government Hospital. Fortunately, the complainant survived. In view of these circumstances, the crime came to be registered for offence under section 307 of I.P.C. There is material to make out a strong prima facie case for offence under section 307 of I.P.C. and even Honourable Apex Court has rejected the Special Leave Petition. The learned counsel for the Applicant submitted that the applicant has been behind bars since 28th August, 2013 and the case has not made any progress. He submitted that on the ground of delay caused in disposal of the case the applicant is claiming bail.

4. By way of precaution this Court had called the report of the Presiding Officer regarding delay caused in deciding the matter. The case is pending in Udgir

Sessions of Latur District. The presiding officer has given explanation. Even learned counsel for the Applicant has produced copy of Roznama. It can be said that the Court is heavily burdened and the Court is working on deputation at other station also. It is required to work for 15 days in other Sessions Division. About 150 Sessions Cases are pending in present Court and other matters, which are more than 1400 are also pending there. It can be said that due to the pendency of the matters, the Court was not able to make the progress. The roznama shows that even when witness list was produced by the learned A.P.P. working in that Court on 20th December, 2014, recently the case was adjourned for not filing witness list. The roznama also shows that application for bail was moved and for few days the matter was adjourned for hearing of the application. The application came to be disposed of on 11th December, 2014. It appears that bail application was filed on 15th November, 2014. Thus, period of around one month was taken for deciding the bail applicant. It is noticed that when bail application is filed, either in Sessions Court, in this Court or in Supreme Court submissions are made by defence that the witnesses should not be examined

unless and until the application filed for bail is decided. Such tactics are played by defence. Thus, it can be said that the blame cannot go entirely to the system.

5. It is not possible to hold that the circumstances have changed. This Court holds that the present applicant is not entitled to get bail on the grounds mentioned in the present applicant.

6. In view of the report of the Presiding Officer it has become necessary to give directions and make some observations. In Latur-Udgir one judicial officer is posted but he is expected to work in two Sessions Divisions. It appears that the Judicial Officer is posted at Udgir and he works at Udgir for 15 days and he works at Ahmedpur for remaining 15 days by going there on deputation. Even when there is more than sufficient work, for one District Judge and one Additional District Judge at Udgir, he is required to do deputation and work at other station and he can give only 15 days for Udgir. Hardly, four sessions cases are disposed of by Additional Sessions Judge in a month. Thus, even if the judge is made to work for all the days of a month at the station, the pendency will go on increasing and the Court may not get sufficient time for disposal of cases involving under trial prisoners like

the present one. In view of this circumstance, it is desirable that a full time Judge is given for Udgir Sessions Division. Registrar (Judicial) is directed to send a copy of this order to the Registrar General for doing needful. With these observations the application is rejected.

7. Criminal Application No.816 of 2015 filed seeking permission to assist learned A.P.P. is allowed and disposed of accordingly.

[T. V. NALAWADE, J.]

Dt.20/02/2015
ans/424