

FARAD CONTINUATION SHEET NO.

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
APPELLATE SIDE, BENCH AT AURANGABAD

CRIMINAL APPLICATION NO. 1659 OF 2015**[Sunil s/o Rameshwar Sonar Vs The State of Maharashtra]**

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

Court's or Judge's orders

Shri S.J.Salunke, advocate for applicant
Shri A.S.Shinde, A.P.P. for respondent

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CORAM : V.M.DESHPANDE, J.
DATED : 16th April, 2015

PER COURT :-

- 1] Liberty is granted to the learned counsel for the applicant to correct the first information report number in the application.
- 2] Present application is filed under Section 439 of the Criminal Procedure Code for grant of bail. The applicant is arrested on 23.5.2014 in connection with Crime No. 160 of 2014, for the offences punishable under Sections 143, 147, 149, 452, 302 and under Sections 4 and 25 of the Arms Act.
- 3] Heard Shri S.J.Salunke, learned counsel for the applicant and Shri A.S.Shinde, learned Additional Public Prosecutor for the respondent/State.
- 4] The charge sheet is filed by the investigating officer since his entire investigation is already over.
- 5] The first information report is lodged by Kailas, who has also seen the incident of assault on deceased Vitthal Rajput. No doubt, there are more than one eye witnesses in the prosecution case, however, the closure scrutiny of their statements recorded by the police during the course of the investigation, shows prima facie that there is a contradiction

in respect of the weapon in the hand of the present applicant. The first informant Kailas who has seen the incident right from beginning has not stated that the present applicant was holding any knife and/or he has given any knife blow. On the contrary, it has been specifically stated that the present applicant has given iron rod blow on Vitthal and the other accused persons gave knife blow to the deceased.

6] It appears from the charge sheet that the mother of the present applicant had some sort of relations with the deceased. Statement of the applicant's mother Shobhabai is also recorded, which shows that present applicant was having knowledge about the illicit relations between herself and deceased and he got the knowledge that the deceased used to visit his house at the odd hours of night and the applicant disapproved such act.

7] It has been pointed out that there is recovery of weapon knife at the instance of the present applicant. I have gone through the said recovery panchanama and the disclosure statement, which clearly show that the weapon is recovered from the well which is accessible to every one.

8] Looking to the fact that Kailas, who has seen the entire incident right from the beginning till the death of Vitthal, has not stated that the present applicant has given any knife blow and in view of the fact that the present applicant's age is only 19 years and he is not having any criminal antecedent at his credit, his further custodial presence will not subserve any purpose. Hence, I pass the following order.

ORDER

- (i) Criminal Application is allowed.
- (ii) Applicant-Sunil s/o Rameshwar Sonar be released on bail, in connection with Crime No. 160 of 2014, for the offences punishable under Sections 143, 147, 149, 452, 302 and under

Sections 4 and 25 of the Arms Act, on he executing P.R. bond of Rs.25,000/- with two solvent sureties in the like amount.

(iii) Bail before the trial court.

(iv) The appliant shall not tamper with the prosecution evidence and shall attend the police station Kadim Jalna once a week preferably on every Sunday between 9.00 a.m. to 11.00 a.m. till the charge is framed.

(v) The observations made in this order are prima facie in nature and are restricted to this application only and the learned Judge of the court below shall not get influenced himself by the said observations while deciding the matter on merits.

(vi) Application is disposed of.

(V.M.DESHPANDE, J.)

dbm/crap1659.15