

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. 4004 OF 2014

THE STATE OF MAHARASHTRA
VERSUS
NARENDRA RAMDAS CHAUDHARI

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APP for Applicant : Mr. A. V. Deshmukh.
Advocate for Respondent: Ms. Shraddha Kulkarni,
Advocate h/f Mr. C. R. Deshpande.

CORAM: T. V. NALAWADE, J.
DATED: 6th FEBRUARY, 2015.

PER COURT:

1. The application is filed by the State under section 439 (2) Cr.P.C. for cancellation of bail granted by learned Additional Sessions Judge in a crime registered for offence under section 376 I.P.C. and also two sections of Protection of Children from Sexual Offences Act.
2. The alleged incident took place on the night of 8th December, 2013 and 9th December, 2013. At the relevant time the prosecutrix was aged about 17 years. She has contended that on that night, present applicant called her on mobile when she was sleeping in the

house. It was midnight hour. He gave threats and he asked her to come to his house. She went to his house. She has made allegations that in one hall of the house of the accused, the accused – applicant committed rape on her and she was there for about 2 hours. She then left the house of the applicant and she was wondering here and there. She was then traced by her relatives on parents side when she disclosed the incident. Attempt was made to see that the present applicant marry the prosecutrix. When he refused to marry, the report came to be made.

4. Learned A.P.P. submitted that in view of the provisions of the aforesaid special Act under section 29 and 30, presumption can be drawn against the present applicant and medical record is also consistent with the version given by the prosecutrix. No injuries were found. This Court is avoiding to say anything about 5he observations made about the examination of the relevant parts of the body as the particulars are not given.

5. Granting or refusing bail is a discretion of the Court. Cancellation of bail is very serious matter. When incident took place between 8th and 9th December, 2013

there are aforesaid circumstance and report came to be given on 13th December, 2013. Medical examination was there on 14th December, 2013. In view of aforesaid circumstances, this Court holds that it is not desirable to cancel the bail. In view of the seriousness of the allegations this Court holds that some conditions needs to be imposed. This Court holds that, to avoid tampering to the witnesses the applicants is to be kept away from the vicinity of the prosecutrix. It is surprising that no conditions are imposed by the learned Sessions Judge.

6. The application is rejected. However, the Respondent is not to commit similar offence. He is not to visit the vicinity of the prosecutrix.

[T. V. NALAWADE, J.]

Dt.06/02/2015
ans/4004