

FARAD CONTINUATION SHEET NO.

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

CRIMINAL APPLICATION NO. 3294 OF 2015
[Mohammad Rehan Mohammad Jafar Vs The State of Maharashtra]
AND
CRIMINAL APPLICATION NO. 3595 OF 2015
[Mohammad Fahim Mohammad Khawja 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 R.N.Dhorde, Senior Advocate i/b
Shri V.R.Dhorde, advocate for applicants in both Applications
Shri A.S.Shinde, A.P.P. for respondent/State in both Applications

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CORAM : V.M.DESHPANDE, J.
DATED : 15th July, 2015

PER COURT :-

- 1] These two applications can conveniently be disposed of by the present common order, since they arise out of Crime No. 155 of 2015, registered with City Chowk police station, Aurangabad, for the offences punishable under Sections 328 and 120-B r/w 34 of the Indian Penal Code, and under Sections 18(c), 18(a)(i) r/w 17(b) of the Drugs and Cosmetics Act, 1940 and Rules 1945.
- 2] Heard Shri R.N.Dhorde, learned Senior Counsel i/b Shri V.R.Dhorde and Shri A.S.Shinde, learned Additional Public Prosecutor for the respondent/State. Both these applications are opposed by the learned Additional Public Prosecutor.
- 3] The first information report is lodged by Smt. Anjali Mitkar, who is the Drugs Inspector. According to the first information report, the applicants were found in possession of injection Oxytocin without proper authorization and also

according to the first information report, the said drug is misbranded. Admittedly, the said drug can be used for lactation of animals only. The said drug is not for human use.

The first information report does not disclose that at any point of time the present applicants were found using this particular drug against human. Therefore, it appears that the learned trial court, though rejected the application filed on behalf of the present applicant, prima facie found that Section 328 of the Indian Penal Code is not attracted.

4] Admittedly, at the time of raid, the present applicants were not having any permit or authorization to sell the said drug. The applicants are in jail since 12.6.2015. Initially, both the applicants had undergone police custody remand. From the investigation papers, it is clear that the investigation is over. According to the learned Additional Public Prosecutor, Chemical Analyser's report is awaited and the charge sheet is to be filed. In view of the fact that the investigation is over and the entire stock of the injections is already seized, further custodial presence of the applicants is not necessary. That leads me to pass following order.

O R D E R

- (i) Both the Criminal Applications are allowed.
- (ii) Applicant-Mohammad Rehan Mohammad Jafar in Criminal Application No. 3294 of 2015 and Applicant-Mohammad Fahim Mohammad Khawja in Criminal Application No. 3595 of 2015, be released on bail, in connection with Crime No. 155 of 2015, registered with City Chowk police station, Aurangabad, for the offences punishable under Sections 328 and 120-B r/w 34 of the Indian Penal Code, and under Sections 18(c), 18(a)(i) r/w 17(b) of the Drugs and Cosmetics Act, 1940 and Rules

1945, on they each executing P.R. bond in the sum of Rs.50,000/- with two solvent sureties in the like amount by each of them.

(iii) Bail before the trial court.

(iv) Applicant-Mohammad Rehan Mohammad Jafar in Criminal Application No. 3294 of 2015 and Applicant-Mohammad Fahim Mohammad Khawja in Criminal Application No. 3595 of 2015 shall attend police station City Chowk, Aurangabad, twice a week, on every Sunday and Tuesday in between 3.00 p.m. to 5.00 p.m. till the charge sheet is filed.

(v) After filing of the charge sheet, Applicant-Mohammad Rehan Mohammad Jafar in Criminal Application No. 3294 of 2015 and Applicant-Mohammad Fahim Mohammad Khawja in Criminal Application No. 3595 of 2015, shall continue to attend police station City Chowk, Aurangabad once in fortnight, on every Sunday between 3.00 p.m. to 5.00 p.m., till the charge is framed against them by the learned trial court.

(vi) Both Applications are disposed of.

(V.M.DESHPANDE, J.)