

FARAD CONTINUATION SHEET NO.

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

CRIMINAL APPLICATION NO. 3809 OF 2014**[Jamunabai Namdeorao Kadam Vs The State of Maharashtra & anr.]**

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

Court's or Judge's orders

Shri V.P.Savant, advocate for applicant
Shri M.M.Nerlikar, A.P.P. for respondent no.1
Shri R.N.Dhorde, Senior Counsel i/b
Shri V.S.Kadam, advocate for respondent nos. 2 and 3

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CORAM : V.M.DESHPANDE, J.

DATED : 27th March, 2015

PER COURT :-

1] This is an application filed by the applicant for cancellation of regular bail granted by this court in Criminal Application No. 892 of 2014 on 26.2.2014. The said bail was granted by this court after filing of the charge sheet in connection with crime punishable under Section 376 of the Indian Penal Code. Worth to note, present applicant and the present counsel have opposed the said bail application when the bail application was considered favourably by this court. This court while granting bail has imposed following three conditions.

(I) The applicants are not to tamper with the prosecution witnesses.

(ii) They are not to commit similar offence

(iii) They are not to enter the village of prosecutrix till disposal of the case filed against them.

2] This order of bail is not challenged by the present applicant on its merits before the Hon'ble Apex Court. It

appears that a novel method is adopted by the present applicant/prosecutrix by filing a first information report on 17.5.2014 alleging therein that the present non-applicants with some other co-accused have committed again same act of forcible intercourse with the prosecutrix, and therefore, the learned counsel for the applicant Shri Savant submitted that the bail granted in favour of non-applicant nos. 2 and 3 should be cancelled.

3] At the first blush, the argument of the counsel is attractive, however, on closure scrutiny, the same needs to be rejected. The subsequent first information report is dated 17.5.2014. A copy of the said first information report is annexed along with the present application.

4] With the assistance of learned counsel, I have one through the contents of the said first information report. It shows that the alleged incident occurred on 9.5.2014, and according to the allegation made in the application the sexual act on the prosecutrix by the non-applicant nos. 2 and 3 was committed in presence of the mother-in-law of the prosecutrix. Her mother-in-law even has not raised any alarm nor has taken any steps to invite the attention of other persons from the locality or from her house.

5] There is no explanation for delay for lodging the first information on 17.5.2014. From the recitals made in the first information report, Shri Savant, learned counsel submitted that the police station was approached on 10.5.2014 and the first information report was submitted. It is not the allegation in the present application that police did not accept the report, dated 10.5.2014. Further, according to the counsel for the applicant since no steps were taken the present applicant approached to the Superintendent of Police, however, no such document is placed on record to show such approach on their part.

6] Thus, all this is done by the present applicant, the court is constrained to say, very intellectually just to defeat the order of bail granted by this court on 26.2.2014 without challenging the same on its merits before the Hon'ble Apex Court. Hence, present application needs to be dismissed and it is dismissed accordingly. At the same time, applicant is cautioned not to make such false complaint.

(V.M.DESHPANDE, J.)

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