

FARAD CONTINUATION SHEET NO.

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

CRIMINAL APPLICATION NO. 4349 OF 2014**[Haribhau Namdeo Dhemre 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.V.Bhavthankar, advocate for applicant
Shri A.S.Shinde, A.P.P. for respondent no.1
Shri P.B.Jadhav, advocate for respondent no.2

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CORAM : V.M.DESHPANDE, J.**DATED : 21st April, 2015****PER COURT :-**

1] This is an application filed under Section 439 (2) of the Criminal Procedure Code for cancellation of regular bail granted in favour of non-applicant no.2 by the learned Additional Sessions Judge, Ambajogai on 6.4.2014 in Miscellaneous Criminal Application No. 205 of 2014.

2] I have heard Shri V.V.Bhavthankar, learned counsel for the applicant, who strenuously urged before this court that the learned trial court has committed error in granting bail in favour of non-applicant no.2, especially when his earlier bail application was rejected.

3] It is not in dispute that the earlier bail application was rejected. That time charge sheet was not filed, and therefore, looking to the said aspect and that the key of the motor cycle and mobile hand set of the deceased Kailas was found with the applicant, on that count alone the application for bail was rejected.

4] Thereafter, on 29.4.2015 the investigating officer has completed his entire investigation and charge sheet is filed.

After charge sheet was filed, further application was moved by non-applicant no.2 before the learned trial court on 26.5.2014. Merely because earlier application, that too before filing of the charge sheet was rejected, that does not debar the learned court to consider the bail application afresh after filing of the charge sheet.

5] Further, it is not the case of the applicant or the case of the prosecution that there is any eye witness account of the incident. The case of the prosecution is based on the circumstantial evidence. The strong circumstance, which is tried to be pressed into service by the learned counsel for the applicant is that the key of the motor cycle was found in possession of the applicant. That by itself is not a strong circumstance warranting continuation of non-applicant no.2 in jail for indefinite period. While releasing non-applicant no.2 on bail, learned trial court has imposed the condition that he shall visit Sirsala police station thrice a week, and further he was debarred from leaving Beed district without prior permission of the court. These stringent conditions subserve the apprehension of the prosecution.

6] No case is made out for cancellation of bail. Application is rejected.

(V.M.DESHPANDE, J.)

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