

FARAD CONTINUATION SHEET NO.

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

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

Court's or Judge's orders

CRIMINAL APPLICATION NO. 3722 OF 2016
IN APEAL/68/2016 WITH APEAL/68/2016

SHRI VISHAL S/O BUDHANAND THORAT
VERSUS
THE STATE OF MAHARASHTRA

...
Advocate for applicant : Mr.Y.B. Bolkar
APP for Respondent/State : Mr. D.R. Kale

...
CORAM: S.S.SHINDE & SANGITRAO S. PATIL, JJ.
Dated: September 07, 2016

...

Heard the learned counsel appearing for the applicant/appellant. Perused the contents of the application and the judgments of the Hon'ble Supreme Court cited across the Bar by the learned counsel appearing for the applicant in the cases of **Rishipal V/s State of Uttarkahand¹**, **Sahadevan and anr V/s State of Tamil Nadu²**, **Sk. Yusuf V/s State of**

1 2013AIR(SCW) 1167

2 2012AIR(SCW)3206

West Bengal³, Musheer Khan @ Badshah Khan and Anr V/s State of Madhya Pradesh⁴ and State of U.P. V/s Shyam Behari and anr⁵.

2. The learned counsel appearing for the applicant submits that if the evidence of the prosecution witnesses is considered in its entirety, it suffers from contradictions and improvements. Even if the prosecution case is taken as it is and accepted that the applicant was last seen together with the company of the deceased, that sole circumstance is not sufficient to rest conviction. He submits that in case of circumstantial evidence the chain of circumstance should be complete and each circumstance should be firmly established by the prosecution, and then only the conviction can rests upon the circumstantial evidence. He submits that in the present case, the prosecution has not brought on record sufficient circumstances, which would establish the guilt of the accused. Therefore, he submits that the appellant/applicant deserves to be released on bail during pendency of the appeal.

3 2011AIR(SCW)3748

4 2010(2)SCC748

5 2009AIR(SCW)5258

3. On the other hand, the learned A.P.P. appearing for the Respondent/State submits that the Trial Court, after considering the evidence on record, has rightly convicted the present applicant/appellant, and therefore, this Court may not grant the application for bail.

4. Upon considering the submissions advanced by the learned counsel appearing for the applicant/appellant and the learned A.P.P., and upon perusal of the Notes of evidence, it prima facie, appears that the prosecution has established the chain of circumstance. The applicant was not on bail during the trial. The incident had taken place within 7 years from the marriage of the applicant/appellant with the deceased. Therefore, taking into consideration the entire evidence brought on record by the prosecution and keeping in view the findings recorded by the trial Court and the fact that the applicant/appellant was not on bail during the trial, we are not inclined to entertain the application for bail. Hence, application for bail stands

rejected.

5. The Registry of this Court shall send the original Record and Proceedings to the Registry of the Sessions Judge, Latur. Upon receiving the original record and proceedings by the Registry of the Sessions Judge, Latur, the Registry of the concerned Court shall prepare the paper book and send it back along with original record and proceedings, as expeditiously as possible, and preferably within four months from receipt of the original record and proceedings.

6. Liberty to mention for early hearing, after paper book and original record and proceedings are received.

(SANGITRAO S. PATIL,J)

(S.S. SHINDE,J)

sga/