

FARAD CONTINUATION SHEET NO.

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

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

CRIMINAL APPLICATION NO. 4706 OF 2016
IN APEAL/484/2016 WITH APEAL/484/2016

RAVI S/O PANDURANG GAIKWAD AND ORS
VERSUS
THE STATE OF MAHARASHTRA

...
Advocate for applicants: Mr. R.S. Deshmukh
APP for Respondent/State: Mr. D.R. Kale

...
CORAM: S.S. SHINDE & K.K. SONAWANE, JJ.
Dated: November 15, 2016

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At the outset, the learned counsel appearing for the applicants makes oral prayer so as to correct the description i.e. age of applicant no.3. Leave granted. Correction to be carried out forthwith.

2. Heard the learned counsel appearing for the applicants and the learned A.P.P. appearing for the respondent/State.

3. The learned counsel appearing for the

applicants invites our attention to the contents of two Dying Declarations coupled with oral Dying Declaration. He submits that the version in the Dying Declarations is in consistent. He further submits that the applicants were on bail during the trial. He further submits that age of applicant no.3 is 62 years and she is suffering from some ailments. Without prejudice to the submissions already made, the learned counsel appearing for the applicants submits that in case this Court is not inclined to entertain the application for releasing the applicants on bail, at least, the application of applicant no.3 may be entertained keeping in view her age and certain ailments suffered by her.

4. On the other hand, the learned A.P.P. appearing for the Respondent/State submits that two written Dying Declarations, oral Dying Declaration and other evidence brought on record by the prosecution is properly appreciated by the trial Court. All the applicants are named. The overt acts are attributed to them in all Dying Declarations, and therefore, this Court may not entertain the application for releasing them on

bail.

5. We have considered the submissions advanced by the learned counsel appearing for the applicants and the learned A.P.P. appearing for the Respondent/State. We have carefully perused the contents of two Dying Declarations and also oral Dying Declaration and other evidence brought on record by the prosecution. Prima facie, it appears to us that the findings recorded by the trial Court are in consonance with the evidence brought on record, however, we find the considerable force in the submission of the learned counsel appearing for the applicants that keeping in view the role attributed to applicant no.3 and her age, applicant no.3 – Kantabai W/o Pandurang Gaikwad may be released on bail.

6. In the light of above, the application of applicant no.1 – Ravi Pandurang Gaikwad, applicant no.2 – Kailas Pandurang Gaikwad and applicant no.4 – Vinod S/o Bhimrao Magare stand rejected. The application of applicant no.3 – Kantabai W/o Pandurang Gaikwad is allowed. Applicant no.3 – Kantabai W/o Pandurang Gaikwad be released on bail by

furnishing P.R. bond of Rs. 15,000/- along with one surety of like amount before the Sessions Court at Aurangabad.

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

8. Upon receiving the paper book and original record and proceedings, liberty to mention for early hearing of the appeal.

(K.K.SONAWANE, J)

(S.S. SHINDE, J)