

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. 4913 OF 2016
IN APEAL/499/2016 WITH APEAL/499/2016

BHARAT S/O WAMAN MULEY AND OTHERS
VERSUS
THE STATE OF MAHARASHTRA

...
Advocate for applicants :Mr. S.J. Salunke
APP for Respondent/State:Mr.A.M. Phule

...

CORAM: S.S.SHINDE & K.K.SONAWANE, JJ.
Dated: December 08, 2016

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Heard the learned counsel appearing for the applicants. Perused the notes of evidence. The learned counsel appearing for the applicants submits that the Medical Officer, who recorded the history when the patient was brought to the hospital, in the evidence deposed that the victim stated that three persons were involved in the alleged commission of

offence. He further submits that no overt acts are attributed to the each of the accused. Therefore, the benefit of doubt ought to have been given in favour of the applicants by the trial Court. He further submits that the involvement of applicant no.3 – Manisha D/o Sampati Muley is ruled out since she is young lady of 32 years and at least, she may be released on bail.

2. On the other hand, the learned A.P.P. relying upon the findings recorded by the trial Court and the evidence brought on record by the prosecution and the appreciated by the trial Court, and in particular, two Dying Declarations at Exhibit-30 and Exhibit-40 submits that, the application for bail may be rejected.

3. Upon hearing the learned counsel appearing for the applicants and the learned A.P.P. appearing for the Respondent/State and upon perusal of the notes of evidence and, in particular, two Dying Declarations the role of each of the applicants have been spelt out. In fact applicant no.3 was instrumental in calling the victim and on her call the victim-Varsha Gina Mule came out of the

house and then the entire incident has taken place. Even the cause as per the prosecution for such quarrel/dispute is the earlier quarrel between applicant no.3 and deceased Varsha. We do not wish to elaborate on the evidence since the appeal filed by the applicants is pending before this Court. We are of the prima facie opinion that, the findings recorded by the trial Court is in consonance with the evidence brought on record. No case is made out for allowing this application. Hence the application stands rejected.

4. The Registry of this Court shall send the original Record and Proceedings to the Registry of Additional Sessions Judge, Ambajogai. Upon receiving the original record and proceedings by the Registry of the Additional Sessions Judge, Ambajogai, 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.

5. Liberty to mention after paper book
is received.

(K.K.SONAWANE, J)

(S.S. SHINDE, J)

sga/