

FARAD CONTINUATION SHEET No.

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

CRIMINAL APPLICATION NO. 265 OF 2016

IN

CRIMINAL APPEAL NO. 182 OF 2016

Office Notes, Office Memorandum of Coram, appearances, Court's orders or directions and Registrar's orders	Court's or Judge's orders
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Ms. Racheeta Dhuru i/by Avinash Avhad for the Applicant.
Smt. G.P. Mulekar, APP. for the State.

CORAM : A.S.GADKARI, J.

DATE : 18th July, 2016

P.C.

Heard the learned counsel for the applicant and the
learned APP.

2) This is an application for suspension of substantive sentence
and for releasing the applicant on bail.

The applicant is convicted under Section 304(II) of the Indian
Penal Code and sentenced to suffer rigorous imprisonment for seven
years and to a fine of Rs.1000/- in default to suffer further rigorous
imprisonment for one month by the learned Additional Sessions
Judge, Palghar, District-Palghar in Session Case No.18/2013 by its
Judgment and order dated 11.9.2014.

3) The learned counsel for the applicant submitted that the
applicant was arrested on 4.12.2012 and since then he is in jail. She
further submitted that out of 7 years of substantive sentence the
applicant has already undergone about 50% of the sentence. She
further submitted that the applicant may be released on bail by

suspending the substantive sentence.

4) The record reveals that the alleged act of the applicant was without premeditation and has taken place in a sudden fight arising out of a sudden quarrel. The learned Trial Court after taking into consideration the Explanation (4) of Section 300 of the Indian Penal Code has held that the offence under Section 304(II) is made out and not under Section 302 of the Indian Penal Code. The applicant therefore has been convicted and sentenced as stated herein above. The maximum sentence imposed upon the applicant is of 7 years of rigorous imprisonment. The applicant has already undergone 50% of the substantive sentence. There is no possibility of the appeal being heard on merits in near future. In view of the same, I am inclined to release the applicant on bail.

Hence, the following order.

ORDER

- a) The applicant be released on bail on his furnishing PR bond of Rs.20,000/- with one or two solvent local sureties in the like amount.
- b) After his release from Jail, the applicant shall attend the Trial Court once in three months on every first Monday between 11.00a.m. to 2.00p.m.
- c) Any two consecutive defaults in attending the Trial Court will entitle the prosecution for seeking cancellation of bail of the applicant.
- d) Application is allowed in the aforesaid terms.

(A.S. GADKARI, J.)