

FARAD CONTINUATION SHEET No.IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

CRIMINAL APPLICATION NO. 322 OF 2016

IN

CRIMINAL APPEAL No. 175 of 2016.

Abrar Rahim Khan Vs. The State of Maharashtra

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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Mr. A.M. Saraogi, for the Applicant.

Mr.A.S. Shitole, APP. for the State.

CORAM : A.S.GADKARI, J.**DATE : 5th July, 2016**

P.C.

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

2) The applicant is convicted under Section 376 (2) read with section 511 of the Indian Penal Code read with section 4 read with section 18 of the Protection of Children from Sexual Offences Act, 2012 and sentenced to suffer rigorous imprisonment for five years and to pay a fine of Rs.5000/- in default to further suffer simple imprisonment for six months by the learned Special Judge, (POCSO Act,) Thane in Special Case No.7/2013 by its Judgment and order dated 19.1.2016. By the same Judgment and Order, the applicant has also been convicted for the offence under Section 506 of the IPC and sentenced to suffer rigorous imprisonment for one year and to pay a fine of Rs.500/- in default of payment of fine to suffer simple imprisonment for 15 days. It is ordered that the substantive

sentences to run concurrently.

3) The learned counsel for the applicant submitted that the applicant has already deposited the entire fine amount in the Trial Court. He further submitted that after registration of the FIR, the applicant was arrested on 17/2/2013 and till date he is inside jail. He further submitted that out of five years of the maximum sentence imposed, the applicant has already undergone approximately 3½ years of sentence, as the applicant was not released on bail during the pendency of the trial. He further submitted that the applicant has almost completed 75% of the substantive sentence as of today.

4) The learned APP opposed the application and submitted that the offence alleged against the applicant is very serious in nature. The learned APP further submitted that the victim girl was residing in the same locality where the applicant was residing and if the applicant is released on bail, there is every possibility that he may either threaten or cause harm to the victim or her family members. He, however, fairly admitted that the applicant has already undergone more than 75% of the sentence of imprisonment.

5) In view of the facts mentioned herein above, I am inclined to release the applicant on bail.

Hence, the following order.

ORDER

i) The applicant be released on bail on his furnishing PR bond of Rs.25,000/- with one or two local sureties in the like amount;

ii) After his release from Jail, the applicant shall not enter the jurisdiction of Thane Police Commissionerate;

- iii) The condition no. (ii) is relaxed only to enable the applicant to attend the trial Court for marking his presence;
- iv) The applicant shall submit his residential address to Mumbra Police Station where he intends to reside after his release from jail;
- v) The applicant shall attend the Trial Court once in three months on every first Monday of the said month between 11:00 a.m. to 1:00 p.m;
- vi) Any two consecutive defaults in marking the presence will entitle the prosecution seeking cancellation of bail granted to the applicant;
- vii) Application is allowed in the aforesaid terms.

(A.S. GADKARI, J.)