

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

CRIMINAL APPLICATION NO. 353 OF 2016

IN

CRIMINAL APPEAL No. 197 of 2016.

Narayan Pandurang Kadam 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. K.S. Rajput a/with Mr Shrikant Chaudhari, Mr Nilesh
Tank i/by Maharashtra Law Associates for the Applicant.
Mr.A.S. Shitole, APP. for the State.

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

P.C.

- 1) Heard the learned counsel for the applicant and the learned APP and also perused the records annexed to the application.
- 2) This is an application for suspension of substantive sentence and for releasing the applicant on bail.
- 3) The applicant is convicted under section 9 (m) and (n) read with section 10 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.1000/- in default to suffer simple imprisonment for three months by the learned Additional Sessions Judge, Satara in Special (Child) Sessions Case No. 63/2014 by its Judgment and Order dated 18.2.2016. By the same Judgment and Order, the applicant has also been convicted for the offence under Section 452 of the IPC and sentenced to suffer rigorous

imprisonment for two years and to pay a fine of Rs.500/- in default of payment of fine to suffer simple imprisonment for one month. The substantive sentence is directed to run concurrently.

4) The learned counsel for the applicant submitted that, the alleged date of incident is 25.6.2014. That as per the prosecution case, the victim who was a minor girl informed the said incident to her mother (PW 1) immediately on the same date. However, the FIR came to be lodged after due deliberation by PW1 and other members from the village on 26.6.2014. He submitted that in the cross-examination of PW 1 it has come on record that PW no.1 had earlier lodged an offence against a person under section 354 of the IPC and the same was subsequently compounded. He submitted that the witnesses namely Eknath (PW 4) and Tanaji (PW 5) who are the witnesses in the present case were also the witnesses in the earlier case lodged by PW 1 under section 354 of the IPC. He submitted that it is the specific defence of the applicant that he has been falsely implicated in the present case after due deliberation by PW 1, 4 and 5 in consultation with other villagers. He lastly submitted that the applicant was on bail during the trial and he did not violate any of the conditions imposed upon him. He therefore prayed that the applicant may be released on bail during the pendency of the appeal.

5) The learned APP opposed the application and submitted that the age of the victim girl was nine years at the time of the incident and therefore some minor discrepancies might have crept in her evidence. He further submitted that the applicant is the cousin brother of the victim and if the applicant is released on bail, there is

every possibility that he may threaten the victim and/or her family members. He submitted that the present application may be dismissed.

6) The record discloses that, in the testimony of PW 1 i.e. the mother of the victim had admitted that she had earlier lodged the complaint under section 354 of the IPC against the accused therein and PW 4 Eknath and PW 5 Tanaji were the witnesses to that case. It further appears from the record that the Medical Officer (PW 7) has stated in his evidence that he did not notice any abnormal thing in the victim. PW 7 Medical Officer has further deposed that neither he noticed any abnormal thing in the victim nor he did find any injury or stains on the person of victim during the course of medical examination.

7) It is an admitted fact the applicant was on bail during the trial and there is no adverse report that he violated any of the conditions of the bail. The maximum sentence imposed upon the applicant is five years.

8) In view of the above, I am inclined to release the applicant on bail during the pendency of the appeal.

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 Medha Police Station District Satara;

- 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 attend the Trial Court once in three months of every first Monday of the said month between 11:00 a.m. to 1:00 p.m;
- v) Any two consecutive defaults in marking the presence with the Trial Court will entitle the prosecution seeking cancellation of his bail;
- vi) Application is allowed in the aforesaid terms.

(A.S. GADKARI, J.)