

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

CRIMINAL APPLICATION NO. 763 OF 2016
IN
CRIMINAL APPEAL NO. 422 OF 2016

Jamir Ahamad Mujawar Vs. The State of Maharashtra & Anr.

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

Court's or Judge's orders

Mr. Kuldeep S. Patil for applicant.
Ms. M.R. Tidke, APP for State.

CORAM : A.S. GADKARI, J.
DATE : 28th July 2016.

P.C.:

- 1) Heard the learned counsel for the applicant and the learned APP for State.
- 2) This is an application for suspension of sentence and releasing the applicant on bail.
- 3) The applicant is convicted under Section 376 of the Indian Penal Code and sentenced to suffer rigorous imprisonment for seven years and to pay fine of Rs.10,000/-, in default of payment of fine to further undergo simple imprisonment for one month and further convicted under Section 3(2) of the Maharashtra Prevention and Eradication of Human Sacrifice and Other Inhuman, Evil Aghori Practices and Black Magic Act and is sentenced to suffer rigorous imprisonment

for one year and to pay fine of Rs.5000/-, in default of payment of fine to further suffer simple imprisonment for one month by the learned Special Judge and Additional Judge-2, Sangli in Sessions Case No.165 of 2016 by its Judgment and Order dated 6th June 2016. The learned Trial Court has directed that the substantive sentences to run concurrently.

4) The learned counsel for the applicant submitted that the prosecutrix/victim in her testimony has deposed that at the time of commission of alleged offence, her husband and other family members were present in the house. That the room where the alleged incident has taken place was situated within the same house. He submitted that the prosecutrix was a married lady and was major in age. He submitted that the prosecutrix though found this act to be obnoxious, did not shout or raise hue and cry and therefore the appellant is having good case on merits. He submitted that the applicant is in jail since his arrest on 11.3.2014. He therefore submitted that the applicant may be released on bail during the pendency of the appeal.

5) The learned APP vehemently opposed the present application and submitted that the applicant herein before commission of the said alleged act, had created psychological fear in the mind of the prosecutrix on the pretext that he was having power to remove the evil from the body of the prosecutrix and therefore the prosecutrix did not raise any shouts. She further submitted that there are two eye-witnesses to the alleged incident. She therefore submitted that the present application may be dismissed.

6) Perusal of the evidence of PW No.2 i.e prosecutrix, prima facie, would reveal that there is substance in the submission of the learned counsel for the applicant. The applicant is in jail since his arrest on 11.3.2014. Out of substantive sentence imposed upon the applicant, he has undergone approximately two years and four months of sentence as of today. In view of the same, I am inclined to

release the applicant on bail.

7) Hence the following Order:

- (i) The applicant be released on bail on his furnishing PR bond of Rs.25,000/- with one or two solvent sureties in the like amount;
- (ii) After his release from jail, the applicant shall not enter the jurisdiction of Sangli Rural Police Station and shall keep himself away from the said area;
- (iii) Before his release from jail, the applicant shall submit the proof/document of his residence where he intends to reside to the Trial Court;
- (iv) After his release from jail, the applicant shall attend the Trial Court once in three months on every 1st Monday between 11.00 a.m. to 2.00 p.m.
- (v) Any two consecutive defaults in attending the Trial Court shall attract the provisions of cancellation of bail.

8) Criminal Application is allowed in the aforesaid terms.

(A.S. GADKARI, J.)