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FARAD CONTINUATION SHEET No.

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

BAIL APPLICATION NO. 1537 OF 2016

Vinod Shivaji Shah 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 Mahesh Kotian, Mr Vijendra Mishra and Mr Dhiren Shah and Jayesh Rathod for the applicant.

Mr H.J. Dedhia, APP for the State.

CORAM : A.S.GADKARI, J.

DATE : 19th August, 2016

P.C.

1) This is an application for bail under section 439 of Criminal Procedure Code of the applicant in CR No. 417/2016 originally registered with Dindoshi Police Station, Mumbai under sections 420, 120 (B) read with section 34 of IPC and under section 23 (1) of Securities Contract Regulation Act, 1956 and now being investigated by the Economic Offences Wing Unit-V, Mumbai.

2) The applicant is arrested on 9/6/2016. He was produced before the learned Magistrate on 10/6/2016. The maximum sentence for the offences alleged against the applicant is up to 10 years of imprisonment. During the course of arguments of the present applicant, it was noticed that the period of 60 days as contemplated under section 167 (2) (a) (ii) of Cr.P.C., came to an end on 8/8/2016. The applicant was

thereafter produced for remand as contemplated under section 309 of Cr.P.C. before the Magistrate on 12/8/2016 by way of video conferencing. The record clearly discloses that on 8/8/2016 an indefeasible right as contemplated under section 167 (2) (a) (ii) of Cr.P.C. is accrued in favour of the applicant. Though the applicant did not file an application for releasing him on bail under section 167 (2) of Cr.P.C. on 8/8/2016 or immediately thereafter, it was necessary on the part of the concerned Magistrate to apprise the applicant about the right accrued in his favour on 8/8/2016. The record reveals that the same has not been done.

3) It is the settled position of law that in every case in which offence is punishable with imprisonment of either description for a term which may extend to ten years and shall also be liable to fine, provisions of section 167 (2) (a) (ii) of Cr.P.C. will be attracted and if investigation in such case, is not completed within a period of sixty days, no Magistrate shall authorize the detention of the accused person beyond the said period and the accused person will have to be released on bail, if he is prepared to furnish bail.

4) As stated earlier though the present application was filed under section 439 of Cr.P.C. for regular bail, this Court noticed that an indefeasible right has been already accrued in favour of the applicant as the investigating agency has not filed a final report as contemplated under section 173 (2) of Cr.P.C. within the stipulated period of 60 days.

- 5) In view of the above, the applicant is entitled to be released on bail under section 167 (2) (a) (ii) of Cr.PC.

Hence, the following order:

ORDER:-

(a) The applicant shall be released on bail in CR No. 417 of 2016 registered with Dindoshi Police Station Mumbai on his furnishing a PR. bond of Rs.1,00,000/- with two solvent local solvent sureties in the like amount;

(b) After his release from jail, the applicant shall attend the Investigating Officer once in a month on every first Monday of the said month between 11:00 a.m. to 2:00 p.m., till filing of the charge-sheet. After filing of the charge-sheet the applicant shall attend the Trial Court once in three months on first Monday of the said month between 11:00 a.m. to 12:00 noon and shall also attend all the Court dates before the trial Court.

(c) The applicant is permitted to furnish cash bail before the Trial Court for a period of four weeks from today and during the said period, the applicant shall complete the procedure for furnishing sureties.

The application is allowed in the aforesaid terms.

- 6) All the concerned to act upon an authenticated copy of this order.

(A.S. GADKARI, J.)