

FARAD CONTINUATION SHEET NO.

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
APPELLATE SIDE, BENCH AT AURANGABAD

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

CRIMINAL APPLICATION NO.156/2017

IN

CRIMINAL APPEAL NO.14/2017

MEENA W/O MOHAN GUTTE

VERSUS

THE STATE OF MAHARASHTRA

...

Advocate for Applicant : Mr.Govind Kulkarni
h/f Mr. Deshmukh Rajendra S.

APP for Respondents/State:Mr.A.A. Jagatkar.

...

AND

CRIMINAL APPLICATION NO. 157 OF 2017

IN

CRIMINAL APPEAL NO.14/2017

ASHABAI ALIAS KUSHABAI W/O MANIK GUTTE

VERSUS

THE STATE OF MAHARASHTRA

...

Advocate for Applicant : Mr.Govind Kulkarni
h/f Mr. Deshmukh Rajendra S.

APP for Respondents/State:Mr.A.A. Jagatkar.

...

CORAM : V.L. ACHLIYA, J.

Dated: January 25, 2017

...

The applicants have moved these applications seeking suspension of the sentences awarded to them and enlarging them on bail during pendency of the appeal on the grounds set out in the applications.

2. Heard the learned Counsel for the applicants and the learned APP for the State and perused the impugned judgment and order. The learned Counsel for the applicants submits that the applicants along with co-accused Amol and four others were tried for the offences punishable under Sections 498A, 302, 201 r.w. 34 of IPC. On conclusion of the trial, the applicants and the co-accused Amol are held guilty of the offences punishable under Sections 306 and 498A r.w. 34 of IPC. The applicants are sentenced to undergo R.I. for two years and to pay a fine of Rs.1000/- for committing the offence punishable under Section 498A of IPC. They are also held guilty of the offence punishable under Section 306 of IPC and sentenced to suffer R.I. for three years and a fine of Rs.1000/-. It is contended that there is no cogent, convincing and sustainable evidence to convict them for the offences punishable under Sections 498A and 306 of IPC. It is contended that during the trial, the applicants were on bail. The learned Additional Sessions Judge has suspended the sentence so as to enable the applicants to prefer an appeal. It is contended that the applicants have fair chances to succeed in the appeal. No charge for the offence punishable under Section 306 IPC was framed; still, the conviction has been awarded under the said section. It is

further contended that the evidence on record nowhere proves the guilt under Section 498A of IPC.

3. The learned APP has opposed the application with the contention that there is sufficient evidence to connect the applicants with the commission of the offences for which they have been held guilty *vis-a-vis* looking to the nature of offence committed by the applicants, they may not be enlarged on bail.

4. Having appreciated the submissions advanced in the light of the reasons and findings recorded by the trial Court, I am of the view that arguable case has been made out to be considered in appeal. Looking to the nature of evidence and the sentence awarded, it is not desirable to keep the applicants behind the bar till conclusion of the appeal. It may not be possible to immediately take up the appeal for final hearing. During the trial, the applicants were on bail. It is nowhere the case of the respondent – State that the applicants may abscond if released on bail. I am, therefore, inclined to entertain the application. Hence, the following order:

ORDER

- (1) Pending disposal of the appeal, the execution of substantive sentence stands suspended subject to deposit of fine amount.

(2) Pending disposal of the appeal, the applicants be released on bail on each of them furnishing bail in the sum of Rs. 25,000/- (Rupees twenty five thousand) each with one surety in the like amount, on following conditions.

(i) Pending disposal of the appeal, the applicants shall attend Parali (Rural) Police Station, Tq. Parali Vaijnath, District Beed, on last day of each month.

(ii) The applicants shall not indulge into any offence of similar nature during the pendency of the Appeal.

(iii) The applicants shall furnish the names of their three close relatives with their addresses and phone numbers.

(3) In the event of breach of any of the conditions of bail, the bail granted to the applicants will be liable to be cancelled.

(4) Bail be furnished in the trial Court.

(5) The Officer In-charge of the Police Station, Parali (Rural) is directed to submit the report of compliance of conditions of bail after every six months.

7. Criminal Applications stand disposed of in above terms.

(V.L. ACHLIYA, J)