

FARAD CONTINUATION SHEET
IN THE HIGH COURT OF JUDICATURE AT BOMBAY
NAGPUR BENCH : NAGPUR.

CRIMINAL APPLICATION (BA) NO.8 OF 2017.

Sau.Bebi w/o Ganesh Revekar

..VS..

The State of Mah, thr. PSO,P.S. Ladkhed, Tq.Darwha, Distt.yavatmal.

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

Mr.U.J.Deshpande, Adv. for the applicant.
Mr.H.R.Dhumale, APP for the State.

CORAM : P.N. DESHMUKH, J.
DATE : 15th FEBRUARY, 2017.

1. This application is filed for grant of bail by accused, who is mother-in-law of deceased, involved in Crime No.104 of 2016, initially registered for the offence punishable under Sections 307, 498-A of the Indian penal Code on 10th July, 2016, wherein after death of deceased on 11th July, 2016 offence punishable under Section 302 of the Indian Penal Code came to be added.
2. Heard learned counsel for the applicant and learned Additional Public Prosecutor for the State.
3. It is submitted that case of prosecution is based on the

Dying Declaration of deceased, however, there is no endorsement by the Naib Tahsildar who has recorded it, to have read over contents of Dying Declaration to its maker and about the maker admitting the same to be correctly recorded as per her say. Learned counsel has relied upon the case of **Abdul Riyaz Abdul Bashir ..vs.. State of Maharashtra** reported in **2012 ALL MR (Cri) 2188** of Division Bench of our High Court, wherein ratio laid down by the Apex Court in the case of **Shaikh Bakshu and ors ..vs.. State of Mah.** reported in **2008(1) SCC (Cri) 679** has been relied and it is held that as there was no mention in the Dying Declaration that it was read over and explained to the deceased, said document was not to be acted upon. The Apex Court in the case of *Shakh Bakshu* has concluded that the view taken by the trial Court and the High Court that, even though no such endorsement is put on the document, it has to be presumed that it was read over and explained, is unacceptable. Admittedly, since application in hand is based on the dying declaration of deceased which does not comply with above requirement and since investigation is complete, following order is passed.

Applicant Sau.Bebi Ganesh Revekar shall be released on bail in Crime No.104 of 2016, registered at Police station Ladkhed, Distt.Yavatmal on her executing P.R. bond in the sum of Rs.25000/- with one surety in the like amount.

Applicant shall mark her presence with Police Station Ladkhed, Tq.Darwha, Distt.Yavatmal once in three months on the first day of each such month, pending trial.

In view of the disposal of this application, Criminal Application(APPP) No.19 of 2017 stands dismissed as infructuous.

JUDGE

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