

FARAD CONTINUATION SHEET No.
IN THE HIGH COURT OF JUDICATURE AT BOMBAY
NAGPUR BENCH AT NAGPUR

CRIMINAL APPLICATION (APPA) NO.431/2018 IN CRIMINAL APPEAL NO.52/2018
 (RAJENDRA DURGAJI BHEDE (IN JAIL) **VERSUS** THE STATE OF MAHARASHTRA, THR. PSO PS
 SONEGAON, NAGPUR)

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

Court's or Judge's orders

 Shri R.M. Daga, counsel for the applicant.
 Shri I.J. Damle, A.P.P. for the non-applicant.

CORAM : SMT. VASANTI A NAIK AND
MRS. SWAPNA JOSHI, JJ.

DATE : APRIL 27, 2018.

By this criminal application under Section 389 of the Code of Criminal Procedure, the applicant seeks the suspension of the sentence passed by the Special Court, Nagpur and a direction against the non-applicant/respondent to release the applicant on bail during the pendency of the appeal.

Shri Daga, the learned counsel for the applicant, submitted that the applicant is the accused no.3 and though as per the judgment of the Special Judge all the three accused were involved in the crime, the role of the accused no.2 was graver than the accused nos.1 and 3. It is stated that a finding is recorded in the judgment of the Special Court that the role played by the accused nos.1 and 3 is almost identical. It is submitted that the acts committed by the accused no.2 were more grave and serious. It is submitted that the accused no.1 had filed Criminal Appeal No.631 of 2017 and had also filed Criminal Application (APPP) No.67 of 2018 in the said appeal for seeking the suspension of the sentence and his release on bail. It is submitted that since the role attributed to the accused nos.1 and 3 is almost identical as could be seen from the judgment of the Special Court and since the accused no.1 is granted bail by the order dated 01.03.2018 in Criminal Application

(APPP) No.67 of 2018, the applicant also needs to be released on bail, on parity.

We have heard the learned counsel for the applicant and the learned Additional Public Prosecutor for the respondent-State. We have also perused the judgment of the Special Court, specially the conclusions drawn by the Special Court in paragraphs 49 to 82 of the judgment. We find that though the findings recorded by the Special Court against the accused nos.1 and 3 are in respect of a crime that is grave and serious, this Court has recorded several reasons in the order dated 01.03.2018 in Criminal Application (APPP) No.67 of 2018 before suspending the sentence imposed upon the accused no.1 and directing his release on bail. Hence, on parity, for the reasons that are recorded in the order dated 01.03.2018, it would be necessary to suspend the sentence imposed on the present applicant and direct the non-applicant/respondent to release the applicant on bail on the same terms and conditions that are imposed by this Court while passing the order dated 01.03.2018.

Hence, for the reasons aforesaid and also for the reasons recorded in the order dated 01.03.2018 in Criminal Application (APPP) No.67 of 2018, this application is allowed. We hereby suspend the sentence imposed upon the applicant/accused no.3 for the offences punishable under Sections 376(d), 452 read with Section 34 of the Penal Code and direct the non-applicant/respondent to release the applicant on bail on furnishing P.R. Bond in the sum of Rs.25,000/- with two sureties in the like amount. Likewise, the applicant shall report to the concerned police station at 11.00 a.m. on the first Saturday of every month, failing which the prosecution would be at liberty to move for the cancellation of the bail.

In the aforesaid terms, the criminal application stands disposed of.

JUDGE

JUDGE

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