

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD**

CRIMINAL APPLICATION NO. 991 OF 2015

Gajanan S/o Kadu Patil & Ors. **APPLICANTS**

V E R S U S

The State of Maharashtra **RESPONDENT**

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Mr. S.D.Tawshikar, Advocate for Applicants.

Mr. A.S.Shinde, A.P.P. for Respondent – State.

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CORAM : V.M.DESHPANDE, J.

DATE : 18th MARCH, 2015

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PER COURT :

1. By the present application, the applicants are seeking enlargement of bail in connection with Crime No. 75/2014 registered with police station Nimbhora, Tal. Raver, Dist. Jalgaon, for the offences punishable u/s 302,498-A,506 read with 34 of the Indian Penal Code, 1860.

2. Heard Mr. S.D.Tawshikar, the learned Counsel for the applicants and Mr. A.S.Shinde, the learned A.P.P. for

respondent – State.

3. Deceased is one Savita, the wife of applicant No. 1 Gajanan Kadu Patil. The investigating agency has already completed the investigation and the charge sheet is already filed in the Court of law. There are two dying declarations in the charge sheet, first is dated 29/11/2014 and another is dated 06/12/2014.

4. The first dying declaration clearly absolves the applicants and it is stated that Savita suffered burn injuries due to accident. What is pertinent to note is that the dying declaration is recorded in presence of mother of the deceased and her thumb impression is obtained. This Court on 10/03/2015 specifically directed the learned A.P.P. to verify in respect of the thumb impression appearing on the dying declaration dated 29/11/2014, as to whether the said thumb impression belongs to Nirmala, the mother. Today the learned A.P.P. submitted upon instructions from the police and as per the report that on 29/11/2014 Nirmala was present when dying declaration of Savita was recorded and in her presence dying declaration was recorded and her thumb impression was obtained.

5. The another dying declaration is dated 06/12/2014, which ascribe role against the present applicants. The investigation is over. There are two contradictory dying declarations on record, one of which clearly absolves the applicants, which is recorded in presence of the mother of

deceased. In that view of the matter, custodial presence of the present applicants is not at all necessary.

6. Hence, I pass the following order :

- (i) Criminal Application No.991 of 2015 is hereby allowed.
- (ii) Applicant Nos. 1 to 4 be released on bail in connection with Crime No. 75/2014 registered with police station Nimbhora, Tal. Raver, Dist. Jalgaon for the offences punishable u/s 302,498-A 506 read with 34 of the Indian Penal Code, 1860 on they executing P.R.Bond of Rs. 5,000/- [Rupees Five Thousand] with one solvent surety of like amount by each of them. Bail before the trial court.
- (iii) The applicants shall not intimidate the prosecution witnesses.
- (iv) Criminal Application No. 991 of 2015 is disposed of.

[V.M.DESHPANDE, J.]