

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

**CRIMINAL APPLICATION NO. 1359 OF 2015**

Fauzia W/o Shaikh Ameen .. Applicant

Vs.

The State of Maharashtra .. Respondent

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Mr. S.A.G. Qureshi, Advocate for the applicant  
Mrs. B.B. Gunjal, A.P.P. for the respondent-State  
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**CORAM : M.T. JOSHI, J.**

**DATE : 09/06/2015**

**ORAL ORDER :**

Heard both sides.

2. The present applicant who is arrested by Dondaicha Police Station, Dist. Dhule for the offences punishable under section 302, 307, 506 r/w. 34 of the Indian Penal Code, is praying for hear release on bail.

3. The applicant's earlier application bearing Criminal Application no. 6293 of 2014 was allowed to be withdrawn by this Court vide order dated 2/12/2014 with liberty to file similar application in the Sessions Court after the chargesheet is filed. The next of the application of the applicant is rejected by the Sessions

Court. The deceased is the sister-in-law of the present applicant. On 12/10/2014, the deceased suffered burn injuries while residing in the joint family. She ultimately died on 12/10/2014 at about 5:15 pm. Initially she was admitted to Rural Hospital at Dondaicha and, thereafter, she was taken to Civil Hospital at Dhule. Her statement was recorded in presence of the Medical Officer by Police on 12/10/2014. Said dying declaration would reveal that in the fateful night, the deceased had seen the illicit intercourse between her husband and the present applicant i.e. sister-in-law. She had therefore threatened of making the said fact public. In the circumstances, both of them had set her on fire i.e. the husband poured kerosene while the present applicant caught hold her and thereafter the husband ablazed her by a burning matchstick. Upon death, the offence came to be registered.

4. Mr. S.A.G. Qureshi, learned counsel for the applicant submits that the applicant is a woman. She is behind the bars since 13/10/2014. Now due to the coming Ramzan festival, as there would be no suitable facility

in jail, the applicant be released on bail. He further submits that statements of the witnesses recorded by the Investigating Officer are prima facie illogical and in these circumstances, he submits that the applicant be released on bail.

5. On the other hand, learned A.P.P. submits that there is nothing illogical. There is a strong prima face case against the applicant in the nature of dying declaration of the deceased and therefore she submits that the application be dismissed.

6. Dying declaration, prima facie, would show that in order to scuttle attempt of the deceased to make the illicit relations public, she was done to death by the applicant as well as her husband. The statement of the relatives would show that the deceased refused to divulge the incident to them and had told that she would narrate the incident only to the Police in the hospital. In that view of the matter, when to her another matrimonial relatives, she allegedly stated that she does not know as to how she has suffered the injuries the said conduct is in consonance of the said statement.

There is however no need to make further observations on merit of the case as the learned Sessions Judge will have to make his own mind on the merit of the case after the conclusion of the trial.

7. Finding that there is strong prima facie case, in my view, the applicant does not deserve to be released on bail, though she is a woman. The application is therefore dismissed.

8. The report received by the learned A.P.P. would show that the trial may be concluded by December, 2015. The learned Sessions Judge is directed to expedite the trial.

9. Needless to state that the learned Sessions Judge would not be influenced by the observations made above, which are prima facie in nature.

Sd/-  
**[M.T. JOSHI]**  
**JUDGE**

arp/