

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

CRIMINAL APPLICATION NO. 1788 OF 2015

Sunil s/o Gangadharrao Suryawanshi,
Age : 40 years, Occu. Agriculture,
R/o Andhori, Tq. Ahmedpur,
District Latur

APPLICANT

VERSUS

The State of Maharashtra,
through Police Station Kingaon,
District Latur

RESPONDENT

Mr. S.J. Salunke, Advocate for the applicant
Mr. V.P. Kadam, A.P.P. for the respondent-State

CORAM : M.T. JOSHI, J.
DATE : 24/07/2015

ORAL ORDER :

1. Heard both sides.
2. The present applicant, who is arrested by Kingaon Police Station, District Latur, in Crime No. 22/2013, registered for the offences punishable under section 302, 498A, 323, 504, 506 read with section 34 of the I.P. Code, is praying for his release on bail.

3. The applicant's earlier application bearing Criminal Application No. 1978/2014 was allowed to be withdrawn by this Court, vide order dated 4th August, 2014 with liberty to file similar application in case the trial is not concluded within a period of six months. Hence, the present application.

4. The report from the concerned Sessions Court was called. It would show that since the court was vacant for a long period, no progress could take place in the sessions case and even the muddemal property could not be deposited by the Investigating Officer till date.

5. The complaint of the father of deceased Sharda would show that she had married to the present applicant on 11th May, 2011. Some dowry was given in the marriage and even the present applicant had issued a letter asking for declaration of dowry before the marriage. After the marriage, however, the applicant as well as his family members, as mentioned in the FIR, started illtreating the deceased over a demand of Rs. 50,000/-. they, however, again made a demand of Rs. Four lacs and

illtreatment continued. Even a complaint was filed by the deceased against the present applicant and his relatives in February, 2013, on the basis of which the offence punishable under section 498A, 323, 504 read with section 34 of the I.P. Code was registered. Thereafter the cohabitation was resumed. However, again the illtreatment continued. In the circumstances, on 28th April, 2013, in the evening, the complainant received a phone call of the villagers of the present applicant that deceased was set on fire by the present applicant and his relatives. Upon getting this information, the complainant asked one of his relatives, namely Ranjeet Chavan to go to the place of occurrence, meet the deceased who was injured at that time and record her statement in a mobile phone. Eventually, on 29th April, 2013, the deceased has died. The offence, therefore, came to be registered.

6. The transcription of the dying declaration recorded in the mobile phone was filed on record of the present application, which would show that when the questions were put to the deceased as to who has done "this", she replied as "applicant - Surya, mother-in-law

and father-in-law". When again she was questioned, she added the name of one Gangadhar and cousin mother-in-law. Thereafter, however, she was unable to make any further statement.

7. Mr. S.J. Salunke, learned counsel for the applicant, submitted that the applicant is behind the bars since long. There are no chances of early hearing in the sessions case, as is clear from the report of the concerned Sessions Court. The mother of the present applicant i.e. one of the co-accused had also suffered injuries in the same incident and eventually, she died due to the burn injuries received by her. He, therefore, prayed that the applicant be released on bail.

8. Since the chargesheet did not reveal that the co-accused i.e. mother of the present applicant had suffered burn injuries in the same incident and died due to the said injuries, a report from the Investigating Officer was called. The report would show that the mother of the applicant had received injuries in the same incident and eventually, she has died due to the

said injuries.

9. The learned A.P.P. opposed the application. He submitted that there is strong prima facie case against the present applicant in the nature of dying declaration recorded on mobile phone. He, therefore, submits that the applicant may not be released on bail.

10. Upon considering all the facts on record that the trial may take its own time, the mother of the applicant has already died because of the burn injuries suffered by her in the same incident, in my view, the applicant can very well be released on bail. Hence, the following order :-

11. The applicant — Sunil Gangadharrao Suryawanshi be released on bail in Crime No. 22/2013, registered with Kingaon Police Station, District Latur for the offences punishable under section 302, 498A, 323, 504, 506 read with section 34 of the I.P. Code, out of which now the Sessions Case No. 23/2013 is pending on the file of learned Additional Sessions Judge, Ahmedpur, on applicant's executing P.R. bond in the sum of Rs.

30,000/- (rupees thirty thousand) and also upon furnishing surety in the like amount.

. The applicant shall not attempt to influence any of the prosecution witnesses in any manner.

12. The application is accordingly allowed and disposed of.

[M.T. JOSHI]
JUDGE

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