

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY.
BENCH AT AURANGABAD.
Criminal Appellate Jurisdiction.**

CRIMINAL APPLICATION NO. 3205 OF 2015.

GOPIRAJ S/O ANANDRAO SHINDE
VERSUS
THE STATE OF MAHARASHTRA & ANR.

Appearance =>

Mr. P.R. Patil, Advocate for the Applicant.

Mrs. Pratibha Bharad, Additional Public Prosecutor for the State of Maharashtra.

CORAM : V.M. Deshpande, J.

DATE : 17th July, 2015.

Per Court :-

Present Criminal Application is filed by the Applicant for grant of regular bail in connection with CR No.44/2014 registered with Police Station, Barad, Taluka – Mudkhed, District - Nanded for the offences punishable under Section/s. 302, 504, 506 read with 34 of the Indian Penal Code.

[2] Heard Mr. P.R. Patil, learned counsel for the Applicant and Mrs. Pratibha Bharad, learned Additional Public Prosecutor.

[3] Offence is registered on the basis of dying declaration of Bhagyashree. There are four accused persons. Present Applicant is Accused No.2. Two other lady accused are already released on bail by the trial court. Entire case of the prosecution is based on four written

dying declarations. 1st dying declaration is dated 3rd December, 2014. It is recorded by Police Constable of Vazirabad Police Station, District – Nanded. 2nd dying declaration is also recorded on 3rd December, 2014. It is recorded by Special Executive Magistrate, Nanded. 3rd dying declaration is also dated 3rd December, 2014. It is recorded by Assistant Police Inspector of Police Station, Barad, District – Nanded; where-as 4th dying declaration is also recorded by Assistant Police Inspector of Police Station, Barad, District – Nanded.

[4] With the help of the learned Additional Public Prosecutor and learned counsel for the Applicant, I have gone through the four different dying declarations.

[5] First dying declaration speaks about self immolation by the declarant after bolting the door from inside; where-as from the second dying declaration it appears that, in the first part she is implicating present Applicant alongwith his father and grandmother however, in second breath, in the very same dying declaration, it is stated that she poured kerosene and her aunt set her on fire. Third dying declaration also like the first dying declaration that she has herself immolated; where-as in fourth dying declaration role ascribed to the present Applicant is that he has poured kerosene and his grand father, who is already released on bail, has set her on fire. Thus, different versions are coming on record in four dying declarations.

[6] Case of the prosecution is wholly based on only written dying declarations. Investigation is already over. Personal liberty of the Applicant cannot be curtailed by using the method of “pick & chose”.

In that view of the matter, the Applicant has made out a case for regular bail. That leads me to pass the following order :-

ORDER

- (i) Criminal Application is allowed.
- (ii) Applicant - GOPIRAJ S/O ANANDRAO SHINDE shall be released on regular bail on he executing PR. Bond of Rs. 10,000/- [Rs. Ten Thousand.] with one solvent surety in the like amount, in connection with CR No. 44/2014 registered with Police Station, Barad, Taluka – Mudkhed, District - Nanded for the offences punishable under Section/s. 302, 504, 506 read with 34 of the Indian Penal Code.
- (iii) Bail before trial court.
- (iv) With this Criminal Application is allowed and same is disposed of, accordingly.

(V.M. DESHPANDE, J.)