

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

CRIMINAL APPLICATION NO. 3762 OF 2015

Mumtajbee w/o Shaikh Ahmed

.... **APPLICANT**

V E R S U S

The State of Maharashtra

.... **RESPONDENT**

.....

Mr. V.A.Bagdiya, Advocate for Applicant.

Mrs. S.G.Chincholkar, A.P.P. for Resp. – State.

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CORAM : V.M.DESHPANDE, J.

DATE : 6th AUGUST, 2015

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PER COURT :

1. By the present application, applicant who is lady is claiming her release on bail since she is arrested on 09/02/2015 in connection with Crime No. 12/2015 registered with Akhada Balapur police station, District Hingoli for the offences punishable u/s 302,307,452,323,504 read with 34 of the Indian Penal Code.

2. Heard Mr. V.A.Bagdiya, learned counsel for the applicant and Mrs. S.G.Chincholkar, learned A.P.P. for respondent – State.

3. Crime is registered on the basis of the dying declaration of deceased Noorie. It is clear from her statement that present applicant and deceased are close relatives and residing adjacent to each other. According to the dying declaration, which is recorded on 08/02/2015 by the police, incident has occurred on 07/02/2015. Said statement reveals that the deceased has prevented her brother Mubin that he should not play with Bablu, who is son of the present applicant, on the ground that these persons are not civilized persons [ते सनटी लोक आहेत]. Upon hearing such remark from the deceased, Noorie has made statement before the police that the applicant and her minor daughter poured kerosene on her person and set her ablaze.

4. Investigation is over. Charge sheet is already filed. From the charge sheet, it is clear that though the incident has occurred on 07/02/2015, death of Noorie occurred on 30/03/2015. Postmortem report discloses the extent of burn injuries on deceased as 52 % and the cause of death, according to F.I.R., is “septicaemia” due to burns.

5. Looking to the cause of death as “septicaemia” due to burns and from the perusal of dying declaration, it is clear that though role is attributed against the present applicant, incident has occurred in a spur of moment since some unparliamentary words were used by the deceased against the present applicant. Therefore, ultimately, the offence may be scaled down to the minor one than u/s 302 of the Indian Penal Code. In that view of the matter, present

applicant, who is lady, may not be detained in the custody further. That leads me to pass the following order.

ORDER

- (i) Present Criminal Application is hereby allowed.
- (ii) Applicant Mumtajbee w/o Shaikh Ahmed be released on bail in connection with Crime No. 12/2015 registered with Akhada Balapur police station, District Hingoli for the offences punishable u/s 302,307,452, 323,504 read with 34 of the Indian Penal Code on she executing P.R. Bond of Rs.15,000/- [Rupees Fifteen Thousand] with one solvent surety of like amount. Bail before the trial court.
- (iii) With these observations, present Criminal Application is disposed of.

[V.M.DESHPANDE, J.]