

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

CRIMINAL APPLICATION NO. 4341 OF 2015

Chandrakala Bhausahab Tekale,
Age: 64 years, Occ: Household,
R/o. Murum, Tq. Omerga,
Dist. Osmanabad.

..Applicant

versus

State of Maharashtra

...Respondent

.....
Mr. Joydeep Chatterji , Advocate for applicant
Mrs. B.B. Gunjal, A.P.P. for respondent
.....

CORAM : N.W. SAMBRE, J.

DATE : 27th AUGUST, **2015**

ORAL ORDER :

Applicant Chandrakala is seeking regular bail in Crime No. 26 of 2015 registered with Murum Police Station, District Osmanabad for the offence punishable under Sections 302, 498A, 323, 504 read with Section 34 of the Indian Penal Code. Applicant Chandrakala and her son Vishwanath are accused, who were arrested on 10/03/2015 and upon completion of investigation, charge sheet against them is filed.

2. Deceased Radhika was wife of Vishwanath, son of the applicant, who is blessed with a daughter of around 6 to 7 months of

age. It is reported that the said minor daughter of 6 to 7 months is presently in the custody of the applicant in jail alongwith the applicant.

3. The above referred factual matrix is not disputed by the prosecution.

4. The case of the prosecution rest upon four dying declarations, in which, two fingers point towards the present applicant, which were recorded latter in point of time, whereas two dying declarations which were recorded earlier speaks of innocence of present applicant, which were recorded immediately after the incident i.e. on 06/03/2015 by Police Head Constable upon certification of health condition of deceased Radhika and another by the Special Executive Magistrate.

5. The fact remains that both the dying declarations which were recorded on 06/03/2015 speaks of innocence of present applicant.

6. Though the statement of mother of deceased Radhika namely Chandrakala was recorded, wherein she has specifically made allegations against the present applicant, however, the

contents of statement recorded under Section 164 of the Code of Criminal Procedure if tested in the light of earlier two dying declarations, in my opinion, noticed *prima facie* contradictions.

7. Be that as it may, having regard to the fact that the investigation in the present matter is already complete and the applicant is behind the bar since 10/03/2015. The charge sheet is in jail alongwith her grand daughter, who is about 6 to 7 months of age. Having regard to the provisions of Section 437(1) of the Code of Criminal Procedure, it will be appropriate, in my opinion, to order the release of present applicant on bail. Hence, I propose to pass the following order.

The applicant be released on bail upon furnishing P.R. bond of Rs.10,000/- (Rs. Ten thousand) with one surety in the like amount in connection with Crime No. 26 of 2015 registered with Murum Police Station, District Osmanabad for the offence punishable under Sections 302, 498A, 323, 504 read with Section 34 of the Indian Penal Code.

8. The application stands allowed in above terms.

[N.W. SAMBRE, J.]