

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

CRIMINAL APPLICATION NO. 4468 OF 2015

Suraj Vitthal Ghotekar,
Age: 24 years, Occu: Labour,
R/o Golden City, Sangamner,
Tal. Sangamner, Dist. Ahmednagar

...Applicant

versus

The State of Maharashtra,
through Police Station In-charge,
Sangamner City P.S., Sangamner,
Dist. Ahmednagar

...Respondent

.....

Mr. V. Y. Bhide, Advocate for applicant
Mrs. M. A. Deshpande, A. P. P. for respondent

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CORAM : N.W. SAMBRE, J.

DATE : 14th SEPTEMBER, 2015

ORAL ORDER :

The applicant herein got married with the deceased Vaishali on 15/02/2009, out of which, they are blessed with two minor issues.

2. The allegations against the present applicant is that he has set on fire his wife Vaishali on 19/04/2015 at 4-00 p.m and thereafter she succumbed due to burn injuries, while taking treatment at Loni Pravara Hospital, Loni on 25/04/2015. In view of her death, Crime No.I-88/2015 came to be registered with Sangamner City

Police Station, District Ahmednagar for the offence punishable under Sections 302, 323 of the Indian Penal Code, on 20/04/2015, in which he is seeking regular bail.

3. The other facts which are required to be taken into account, according to the applicant, are that the applicant was residing alongwith his father, mother, brother and his family members. At the relevant time, according to the applicant, though other family members were out of station, all of them returned and attended the hospital late in the night, where Vaishali was admitted. Learned Counsel for the applicant would urge that from perusal of the statement of Vaishali, it reflects that she died because of accidental fire or it's a case of suicide.

4. According to him, having regard to the above factual matrix and particularly the applicant has required to take care of his two minor children, it will be appropriate to order his release on bail.

5. The claim for grant of regular bail is opposed by learned A.P.P. on the ground that there is clear involvement of present applicant as is apparent from the evidence available on record. She would submit that the statement dated 20/04/2015 of the deceased, which could be treated as dying declaration speaks voluminous

about the conduct of applicant prior to the incident and at the time of incident. According to her, difficulty as narrated about the children can be taken of them by parents and family of brother of the applicant. She submits that the application is liable to be rejected.

6. Having perused the proceedings placed on record, along with the assistance of learned A.P.P., I have noticed that the applicant got married on 15/02/2009 with deceased Vaishali and they are blessed with two issues. The incident occurred on 19/04/2015, however, from the investigation papers, it is clear that all the family members of the applicant but for his wife Vaishali were gone out of station to visit temple. The applicant and his wife Vaishali were alone and the cause of death of Vaishali is within special knowledge of the present applicant, which of course, is rebuttable but could be gone into at the time of trial.

7. So far as the ground of delay in lodging F.I.R. is concerned, the family members returned late in the night on 19/04/2015 and on 20/04/2015 the F.I.R. is lodged. In my opinion, the delay in lodging the F.I.R. could be hardly of any benefit to the present applicant as is apparent from the perusal of the contents thereof.

8. The F.I.R. speaks about the conduct of the present applicant i.e. extramarital affairs.

9. In view of availability of prima facie case, no case is made out. The application stands rejected.

[N.W. SAMBRE, J.]