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

CRIMINAL APPLICATION NO.4681 OF 2015

Nafisa w/o Latif Pathan & ors. ..APPLICANTS

VERSUS

The State of Mah. & anr. ..RESPONDENTS

Mr R.G. Joshi, Advocate for applicants;
Mrs M.A. Deshpande, A.P.P. for respondents

CORAM : N.W. SAMBRE, J.

DATE : 16th October, 2015

ORAL ORDER :

By the present application under section 439 of the Code of Criminal Procedure, the applicants seek their release on bail, in connection with C.R. No.I-83 of 2015, registered with Sillod City Police Station, Sillod, Taluka Sillod, Dist. Aurangabad, for offences punishable under sections 302, 304-B, 498-A, 323, 504, 506 read with sec. 34 of the Indian Penal Code.

2. The case of the prosecution is that applicant no.2 Asmabegum caught hold legs of deceased Farin and her hands were held by her in-laws, the husband of deceased, namely, Wasimkhan and brother-in-law Imrankhan poured kerosene on her person, whereas applicant no.1 Nafisa pelted lighted match-stick on her body and set her on fire.

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3. With the assistance of the learned Addl. Public Prosecutor, I have scanned entire investigation papers and heard learned Addl. Public Prosecutor, at length. Perused the post mortem notes.

4. While trying to make out a case for grant of bail, learned Counsel appearing on behalf of the applicants, would urge that the applicants herein are falsely implicated in the crime. According to him, both the applicants are married sister-in-laws and staying away from the place of residence of deceased Farin. According to the applicants, the entire family members of the applicants are impleaded as accused in the crime.

5. While opposing the application, learned Addl. Public Prosecutor would urge that the eye-witnesses speak of presence of the present applicants on the scene of the offence. It is further required to be noted that Subhankhan s/o Munafkhan, the brother-in-law of deceased Farin has narrated that he has witnessed the burning of deceased Farin. In the first information report, it is narrated that there was an oral dying declaration naming the particular act to the present applicants.

6. It appears from the investigation papers that the order in which the incident has been narrated, speaks of initially removal of jewellery on the body of deceased Farin and thereafter her hands and legs were held by the respective accused persons and applicant no.1 set her on fire. It further speaks of fall of Farin on ground after she was set on fire. It is

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required to be noted that, upon perusal of the post mortem notes, there is not a single surface injury noticed on the body of deceased Farin. The same is required to be taken note of, particularly in the background of narration of the incident in the order in which it is stated in the first information report. Even if it is presumed that if Farin was set on fire, the injuries on her body could not be noticed. However, it is worth to mention here that there would have been appropriate resistance by Farin before she was set on fire, i.e. at the time of removal of her jewellery, when she was caught hold by the applicants and other accused before she was set on fire.

7. Apart from above, this Court must take a note of the fact that all the family members of the applicants, i.e. in-laws and other family members are impleaded as accused in the crime in question. As such, false implication of the applicants cannot be ruled out.

8. It is required to be noted that the applicants are women, who are married sisters-in-law of deceased Farin, who are permanent residents of some other place than that of the place of the deceased.

9. In view of above, in my opinion, it will be appropriate to enlarge the applicants on bail. Thus, the following order :-

Applicants are released on bail, in connection with C.R. No.I-83 of 2015, registered with Sillod City Police Station, Sillod, Taluka Sillod, Dist.

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Aurangabad, for offences punishable under sections 302, 304-B, 498-A, 323, 504, 506 read with sec. 34 of the Indian Penal Code, on each of them furnishing P.R. Bond of Rs.15,000/- with one surety in the like amount.

Criminal Application stands allowed in above terms.

(N.W. SAMBRE, J.)

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