

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

CRIMINAL APPLICATION NO.5062 OF 2015

Narmadabai Dhondu Koli ... APPLICANT

VERSUS

The State of Maharashtra ... RESPONDENT

.....
Shri D.B. Shinde, Advocate for applicant
Shri R.B. Bagul, A.P.P. for respondent
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CORAM: N.W. SAMBRE, J.

DATED: 23rd October, 2015.

ORAL ORDER :

1. The applicant is seeking regular bail in crime No.19/2015, registered at Faizpur Police Station, Taluka Yawal, District Jalgaon for an offence punishable under Sections 302, 307 read with Section 34 of the Indian Penal Code in relation to the incident dated 14.3.2015.

2. It is the case of the prosecution that the complainant Ashwini was set on fire by the applicant with the assistance of co-accused Lalita, who is already released on bail by the learned Sessions Court by order dated 17.7.2015.

3. The learned counsel for the applicant, while trying to make out a case for grant of bail, would urge that, the applicant is female, aged 75 years and was falsely implicated in the crime in question as according to her, the prosecution has alleged that she has committed the crime acting in aid with Lalita. He has then invited my attention to the role attributed to the applicant that the applicant has poured kerosene on the deceased and the deceased was set on fire by Lalita.

4. The learned A.P.P. would urge that the F.I.R. has to be read as a dying declaration of the complainant. In view thereof, irrespective of the age of the applicant, having regard to the case under Section 302 of the Indian Penal Code, a serious crime is alleged and the application is liable to be rejected.

5. Having considered the rival submissions, it is required to be noted here that, the investigation in the matter is already complete and the charge sheet is filed. The another co-accused Lalita was already ordered to be released on regular bail by the learned Sessions Judge by order dated 17.7.2015 relying upon the statements of the witnesses that Lalita was not present at the spot but was at some other village.

6. According to me, it is required to be noted that, once the Sessions Court grants bail to the accused Lalita on the ground of plea of alibi, the execution of the alleged crime by the applicant individually, particularly when she is aged about 75 years, is completely improbable.

7. In the above referred background, if it is accepted that Lalita was not present at the spot, it is really improbable that the applicant, who is a female, aged about 75 years, will set on fire the victim independently.

8. The fact remains that the applicant, who is of 75 years of age, needs a favourable consideration in the light of the

provisions under Section 437 of the Code of Criminal Procedure coupled with the fact that the custodial detention of the present applicant is no more required as the charge sheet is already filed.

9. In this background, it will be appropriate in my opinion to order release of the applicant. The criminal Application is allowed. The applicant be released on bail on her executing P.R. Bond in the sum of Rs.10,000/- (Rupees ten thousand) with one surety in the like amount.

(N.W. SAMBRE, J.)

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