

IN THE HIGH COURT OF JUDICATURE AT BOMBAY

BENCH AT AURANGABAD

CRIMINAL APPLICATION NO.5697 OF 2015

IN

CRIMINAL APPEAL NO.367 OF 2015

Badrinath s/o Tukaram Shinde,
Age-34 years, Occu:Agriculture,
R/o-Mahalaxmikheda, Tq-Gangapur,
Dist-Aurangabad.

...APPLICANT

VERSUS

The State of Maharashtra,

...RESPONDENT

...

Mr. N.S. Ghanekar Advocate for Applicant.

Mr. K.S. Patil, A.P.P. for Respondent - State.

...

**CORAM: A.B. CHAUDHARI AND
INDIRA K. JAIN, JJ.**

DATE : 23RD OCTOBER, 2015

ORDER :

1. Heard learned counsel for the rival

parties. The offence is alleged to have been taken place on 30th August 2007 and the Applicant/Appellant was released on bail 2nd September 2007 and was on bail during trial.

2. This Court had, on 29th July 2015, rejected the bail application filed by the Applicant/Appellant in the light of conviction that was awarded under Section 304-B of the Indian Penal Code.

3. There is no prima facie finding about the Applicant having participated in the offence of murder. Exhibit 101, the Dying Declaration does not appear to have been proved according to law nor the person who recorded the same was examined. The Dying Declaration Exhibit 79 shows that it was mother in law who had poured kerosene on the person of the deceased Priyanka, but she has been acquitted by the trial Court. The said Dying Declaration Exhibit 79 does not show overt-act on

the part of the Applicant - husband but in the further paragraphs she says that she had doubt about her husband doing so. In view of these circumstances and keeping in mind the fact that the Applicant/Appellant was on bail through-out, we think that he should be released on bail pending hearing of the Appeal.

4. Hence, we make the following order:-

O R D E R

(I) Criminal Application No.5697 of 2015 is allowed.

(II) Applicant - Badrinath s/o Tukaram Shinde shall be released on bail on his furnishing Personal Bond in the sum of Rs.20,000/- (Rupees Twenty Thousand) with one Surety in the like amount.

(III) The Applicant shall furnish bail
in the trial Court.

[INDIRA K. JAIN, J.]

asb/OCT15

[A.B. CHAUDHARI, J.]