

IN THE HIGH COURT OF JUDICATURE AT BOMBAY,
BENCH AT AURANGABAD.
APPELLATE SIDE JURISDICTION

CRIMINAL APPLICATION NO. 6190 OF 2015

BISMILLABEE W/O. KASHIM PATHAN AND ORS
VERSUS
THE STATE OF MAHARASHTRA

...
Advocate for Applicants : Mr. S. J. Salunke.
APP for Respondent : Ms. S. S. Raut.
...

CORAM : **INDIRA K. JAIN, J.**

DATE : 22nd December, 2015.

ORAL ORDER:

. This is an application for regular bail in Crime No.84 of 2015 registered at Sirsala Police Station, District Beed for the offences punishable under Sections 498(A) and 306 read with 34 of the Indian Penal Code.

2 Heard Mr. S. J. Salunke, learned counsel for Applicants and Ms. S. S. Raut, learned APP for the State. Perused papers of investigation.

3 Deceased Arefa was the younger daughter of Complainant

Shaikh Kondaji s/o Shaikh Fakir resident of Borkhed, Taluka Parli Vaijnath, District Beed. Arefa was married to Sharifoddin before ten years of incident. Applicant No.1 is mother-in-law, Applicant No.2 is wife of Applicant No.3 and Applicant No.3 is brother-in-law of Arefa.

4 It is the case of prosecution that for eight years in the beginning Arefa was treated well in her matrimonial house. Thereafter present Applicants started instigating husband of Arefa to demand Rs.1,00,000/-. She was often ill-treated by Applicants and her husband on demand of Rs.1,00,000/-.

5 On 6th October, 2015 husband of Arefa informed the Complainant on phone that she has received burn injuries. Complainant rushed to hospital. Arefa disclosed to her father and other relatives that because of unbearable ill-treatment on demand of money she was tired and committed suicide by pouring kerosene and setting her ablaze. She received 86% burn injuries and died on 19th October, 2015.

6 It is pertinent to note that after receiving burn injuries Arefa was alive for 14 days. The father and other relatives had stated about oral dying declaration given by Arefa to them. Investigating Agency

had chosen not to summon the Special Judicial Magistrate for recording statement of victim. No written dying declaration was recorded despite opportunities being available to Investigating Officer.

7 So far as allegations regarding alleged cruelty are concerned, FIR speaks that initially for 8 years there was no ill-treatment to Arefa. She was treated well in the family. Allegations regarding demand of money are vague, no specific instances have been quoted in FIR. Almost all the material witnesses are relatives from maternal side of deceased.

8 In this premise this Court finds it fit to exercise judicial discretion. Hence the following order -

ORDER

- I. Criminal Application No.6190 of 2015 is allowed.
- II. Applicant No.1 Bismillabee w/o. Kashim Pathan,
Applicant No.2 Shabana w/o. Shahabuddin @
Baban Pathan and Applicant No.3 Shahabuddin
@ Baban s/o. Kashim Pathan are released on

bail in Crime No.84 of 2015 registered at Sirsala Police Station, District Beed for the offences punishable under Sections 498(A) and 306 read with 34 of the Indian Penal Code, on P.R. and S.B. of Rs.15,000/- (Rupees Fifteen Thousand only) each.

- III. Applicants shall not tamper with the prosecution evidence and shall make themselves available as and when required.
- IV. Bail before the Trial Court.

[INDIRA K. JAIN, J.]

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