

Anand

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION**

BAIL APPLICATION NO.657 OF 2015

Ehajaj Hasanraja Shaikh .Applicant

V/s.

The State of Maharashtra & anr. .Respondents

Mr.Vijay Kumar Jha, Advocate, for the
Applicant

Mr.Y.M.Nakhwa, APP, for the Respondent No.1 -
State

CORAM : REVATI MOHITE DERE, J.

DATE : 28TH APRIL, 2015

P.C.

. Heard the learned counsel for the
applicant and the learned APP for the
respondent No.1 – State.

2. By this application, the applicant
seeks his enlargement on bail in connection
with C.R.No.252 of 2014 registered with the
Sakinaka Police Station, Mumbai, for the
alleged offences punishable under Sections

304B, 498A r/w.34 of the Indian Penal Code and under Section 4 of the Dowry Prohibition Act.

3. The incident in question has taken place on 14.05.2014 at about 2.00 a.m. in the night. It is alleged that there was a quarrel between the deceased and the applicant. Being fed up with the quarrel, the deceased poured kerosene and set herself ablaze.

4. The learned counsel for the applicant submitted that a perusal of the statement of the first informant i.e. mother of the deceased shows that there was no demand for dowry. He submits that the allegations in the F.I.R. are that the applicant would assault the deceased. He submitted that the deceased has in her dying declaration, stated for the first time, that there was a demand of dowry from the applicant. He submitted that admittedly, the applicant was not present in the house, at the time of the alleged incident

and that the deceased has stated in her dying declaration that she poured kerosene on herself and set herself ablaze. Admittedly, the applicant along with the mother of the deceased extinguished the fire and took the deceased to the hospital.

5. The learned APP opposed the bail application. He relied on the dying declaration of the deceased in support of his contention.

6. Perused the charge-sheet. It appears from the complaint/FIR lodged by the mother of the deceased that there are no allegations of dowry demand qua the applicant. It appears that the deceased's sister had gone to stay, at the applicant's house on that day, and that after some time, she came back and disclosed to the first informant that the applicant was assaulting the deceased. According to the complainant, when she rushed to the house of

the deceased, she saw the applicant sitting on the open ground and that suddenly, thereafter, they heard the cries of the deceased. The applicant and the mother (complainant) are stated to have rushed to the spot and found that the deceased had set herself ablaze. Admittedly, the applicant was not present at the spot when the deceased set herself on fire, although, the alleged cause of committing suicide was the assault by the applicant. It also appears that the other co-accused i.e. the mother and brother-in-law have been enlarged on bail. Investigation is complete and charge-sheet has been filed. Considering the aforesaid, the applicant is enlarged on bail on the following terms & conditions;

(i) The applicant be enlarged on bail on his furnishing P.R.Bond in the sum of Rs.25,000/- with one or two solvent sureties in the like amount;

(ii) The applicant shall attend the Sakinaka Police Station, Mumbai on the first Saturday of every from 10.00 a.m. to 11.00 a.m. till conclusion of the trial;

(iii) The Applicant shall not tamper or attempt to influence the complainant or any persons concerned with the case ;

(iv) The applicant to co-operate with the conduct of the trial;

(v) Upon failure to abide by any of the aforesaid conditions, the prosecution is at liberty to seek cancellation of Applicant's bail;

7. The aforesaid observations are prima facie, and the trial Court shall decide the case on its own merits, in accordance with law, uninfluenced by the observations made in this order.

8. The Application is allowed in the aforesaid terms and is accordingly disposed of.

Parties to act on the authenticated copy of this order.

(REVATI MOHITE DERE, J.)