

Vidya Amin

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

BAIL APPLICATION NO. 1192 OF 2015

Sandip Appaso Bhosale

... Applicant

Vs.

The State of Maharashtra

... Respondent

Mr. Amar Kale i/b. Mr. Prashant S. Hagare, Advocate for the applicant.
Mr. S.S. Pednekar, APP for the respondent/State.

CORAM: **MRS.MRIDULA BHATKAR, J.**

DATE : **AUGUST 17, 2015**

P.C.:

This Application is moved for bail, as the applicant/accused is facing charges under sections 302, 307, 504, 506 of the Indian Penal Code in C.R. No. 260 of 2014 registered with Baramati Taluka Police Station, District Pune. The offence was registered at the instance of information given by deceased Savita herself on 25th December, 2013.

2. Savita Sandip Bhosale and applicant/accused got married 15 years ago. They had one son of 12 years old at the time of incident. On 24th December, 2013 at night, the applicant/accused picked up quarrel with his wife Savita on account of preparation of food and then he went out and returned home at 11 p.m. in a drunken condition. He again fought with her, as she did not cook non-veg. food. On 25th December, 2013 at 3.00 a.m. she cooked some sweet dish for him and requested him to eat, at that time, applicant/accused threw that dish at her and quarreled with her.

He abused her and told that he wanted to finish her. At 3.30 a.m. he poured ½ litre of kerosene on her body and ignited matchstick and set her on fire. As she was in flames, she started shouting and then relatives arrived and extinguished the fire. She was taken to the hospital by the applicant/accused and other relatives. She was treated in burns ward, however, she succumbed to burn injuries on 30th December, 2013. Her statement was treated as FIR and the applicant was immediately arrested. Hence, this Bail Application.

3. The learned counsel for the applicant/accused has submitted that the applicant/accused is innocent. He did not want to murder his wife. Whatever was done was under the influence of liquor and due to quarrel between the husband and wife. The learned counsel submitted that it is not a case of murder but a case of culpable homicide not amounting to murder. In support of his submissions, he relied on the case of **Bhaurao Abaji Dhandre vs. State of Maharashtra, reported in 2001 ALL MR (Cri) 1730**. He submitted that in the said case having the similar facts, the accused was granted bail. He submitted that the incident has taken place after 15 years of marriage and prior to this, there was no complaint of any harassment or any offence committed by the applicant/accused.

4. Learned APP opposed the Application. He relied on the complaint, postmortem report and statements of the witnesses. He submitted that

this is a case under section 302 and hence, the bail is not to be granted to the applicant/accused.

5. Perused the FIR, dying declaration and statement of the victim. It *prima facie* shows that the applicant/accused set the victim on fire at around 3.30 a.m. on the night intervening 24th December and 25th December, 2013. Considering the facts of the case, the case may fall under the culpable homicide not amounting to murder. However, the act is specifically attributed to the applicant/accused of setting the deceased on fire. The burn injuries sustained to deceased Savita are 60% and after 5 days she died. In the case of **Bhaurao Abaji Dhandre** (*supra*) the couple had 10 years of married life prior to incident. In the said case, the applicant/accused was reported to have himself suffered 43% of burns and there was some lacuna in issuing a certificate in respect of health of the deceased while recording dying declaration. Thus, the said case is distinguishable on facts. In the present case, no burn injuries were found on the person of the applicant/accused. Thus, it shows that the applicant/accused did not tried to extinguish the fire. In view of this, this is not a case to grant bail. Hence, the Application for bail is rejected.

(MRS.MRIDULA BHATKAR, J.)