

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

CRIMINAL APPLICATION NO.901 OF 2015
IN
CRIMINAL APPEAL NO.891 OF 2014

Parshuram Nagappa Vitkar Applicant /
(Org. Accused No.1)

Versus

State of Maharashtra,
Through Sadar Bazar Police Station Respondent

Mrs. Sarojini Upadhyay, Appointed Advocate,
for the Applicant.

Mrs. G.P. Mulekar, A.P.P., for the Respondent-
State.

CORAM : SMT. V.K. TAHILRAMANI &
DR. SHALINI PHANSALKAR-JOSHI, J.J.

DATE : 14TH AUGUST, 2015.

P.C. :

1. Heard learned Counsel for the Applicant/Original Accused No.1 and learned A.P.P. for the Respondent/State.
2. The Applicant has been convicted under Section 302 r/w. 34 of the IPC. The Applicant is now seeking bail.
3. It is the prosecution case that deceased Chandrakant has given Rs.10,000/- on loan to the Applicant. Thereafter, as

Chandrakant was in need of money, he demanded back the amount of Rs.10,000/- from the Applicant. This demand was made by the Applicant on the night prior to the day of the incident. The Applicant abused Chandrakant and thereafter Applicant told Chandrakant to come to his house and he would give the money. Hence, on 25th October, 2012, at about 10:30 pm, Chandrakant went to the house of the Applicant. At that time, the Applicant and his wife were at home. Chandrakant asked about his money. Thereupon, the Applicant abused him. Then the Applicant took petrol, which was kept in a bottle in his house, and poured it on Chandrakant. Then the wife of the Applicant, i.e. original Accused No.2 Lalita, set Chandrakant on fire by lighting a match-stick.

4. There are two Dying Declarations on record; the first is Exhibit-20, which is recorded by PW-3 Police Head Constable Shivkumar Jadhav. The second Dying Declaration (Exhibit-18) is recorded by PW-2 Special Judicial Magistrate Mr. Dayanand Mane. In both the Dying Declarations, Chandrakant has stated about loan of Rs.10,000/- being given by him to the Applicant. Chandrakant has further stated that on 25th October, 2012, at about 10:30 pm, when Chandrakant went to the house of the

Applicant, the Applicant poured petrol on his person and thereafter wife of the Applicant, i.e. Original Accused No.2 Lalita, set the Chandrakant on fire.

5. In addition to two Dying Declarations (Exhibits 20 and 18), Chandrakant had made an oral Dying Declaration to his wife PW-4 Mangala. Mangala has clearly stated that at about 1:15 hrs. in the mid-night, she received telephone call from the Police stating that her husband Chandrakant was admitted in the hospital. She went in the Police Jeep to the hospital. She met her husband in the hospital. Her husband Chandrakant told her that he went to the house of the Accused (Applicant) and when Chandrakant demanded back his money, the Applicant abused him. Thereafter, the Applicant poured petrol on Chandrakant and thereafter Chandrakant was set on fire by the wife of the Applicant. The two Dying Declarations (Exhibits 20 and 18) and the oral Dying Declaration prima facie show the complicity of the Applicant in a case under Section 302 of the IPC.

6. In this view of the matter, we are not inclined to grant bail to the Applicant. The Application is rejected.

[DR. SHALINI PHANSALKAR-JOSHI, J.] [SMT. V.K. TAHILRAMANI, J.]