

Vidya Amin

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

ANTICIPATORY BAIL APPLICATION NO. 1118 OF 2015

Bharat Tukaram Mote	... Applicant
Vs.	
The State of Maharashtra	... Respondent

Mr. Jaydeep D. Mane, Advocate for the applicant.
Mr. Arfan Sait, APP for the State.

CORAM: **MRS.MRIDULA BHATKAR, J.**
DATE : **AUGUST 5, 2015**

P.C.:

This Application is moved for pre-arrest bail, as the applicant/accused is apprehending arrest in C.R. No. 183 of 2015 registered with Pandharpur Taluka Police Station for the offences punishable under sections 302, 307, 452 of the Indian Penal Code and under section 3 of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act.

2. One Pushpa Samadhan Kamble died due to burn injuries. In her first statement, she stated that it was an accidental burn due to kerosene lamp. Thereafter, she gave statement to the police on 28th June, 2015 that she did not tell the truth in her initial dying declaration only because she was scared of her reputation and now she changed her version and stated that she was ravished in the year 1994 by the applicant/accused. He was in jail, however, after settling the matter, he came out of the jail. Thereafter,

applicant/accused used to threaten her that he will burn her alive. In the year 2014 her husband gave information to the police about it. However, again the matter was settled. Thereafter, the applicant/accused again used to threaten her intermittently and on 21st June, 2015 at around 9 p.m., the applicant/accused poured kerosene on her on the ground that though they were having affair, she gave false complaint against him to the police and therefore, he wanted to kill her. The applicant threw matchstick on her and set her on fire. She started shouting. The persons from vicinity came there and extinguished the fire and admitted her in the Civil Hospital, however, she died.

3. The learned counsel for the applicant/accused submitted that the applicant/accused is falsely implicated in this case. In the first statement and history given by the deceased, she has stated that it was an accidental death, however, when she was shifted to the hospital, she gave false statement and attributed the act to the applicant/accused. The applicant/accused is innocent. There is inconsistency in the statements of the deceased and therefore, the applicant is to be protected by pre-arrest bail.

4. Learned APP submitted that it is a case of murder under section 302, hence, pre-arrest bail is not to be granted to the applicant/accused.

5. Perused the statements of the deceased and the order passed by the learned Additional Sessions Judge, Pandharpur dated 20th July, 2015. The learned Sessions Judge has given the detailed reasons for rejecting the Application for pre-arrest bail. There may be discrepancies in the dying declarations of the deceased, however, that cannot be considered at the stage of anticipatory bail. Considering the facts of this case and the deceased has stated that the applicant/accused has set her on fire, this is not a fit case to grant pre-arrest bail. Hence, the Application for anticipatory bail is rejected.

(MRS.MRIDULA BHATKAR, J.)