

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
CRIMINAL BAIL APPLICATION NO. 1930 OF 2015**

Shivkanta @ Shivamma Shankar Birajdar ..Applicant

v/s.

The State of Maharashtra. ..Respondents

Mr. Ritesh Thobde for the Applicant
Mrs. Veera Shinde, APP for the Respondent-State.
Mr.B.S.Kapse, API, Walsang Police Stn.

**CORAM : SMT. ANUJA PRABHUDESSAI, J.
DATED : NOVEMBER 24, 2015.**

P.C.

1. This bail application is by the applicant who is an accused in Sessions Case No. 194 of 2015 pending before the Sessions Court at Solapur for the offence punishable under Section 302 of the Indian Penal Code.

2. Heard Mr. Thobde, the learned counsel for the applicant. He submitted that the dying declarations are inconsistent and cannot be relied upon. The learned Counsel for the applicant has further submitted that the oral dying declaration is a weak piece of evidence and as such no reliance can be placed on the same. He submitted

that the applicant is 65 years old lady and hence the applicant be released on bail.

3. Mrs. Shinde, the learned APP for the State submitted that the statement of the witnesses prima facie shows the involvement of the applicant in commission of the crime. She has submitted that the offence is grave and that the applicant is not entitled for bail.

4. I have perused the records and considered the submissions advanced by the learned Counsel for the respective parties. The records prima facie reveal that the victim by name Kastura Birajdar was admitted in the Solapur Civil hospital with burn injuries. Her statement was recorded on 24.3.2015 wherein she had stated that she had a fight with the applicant and that on the same day at about 4.30 hours the applicant had set her on fire by pouring kerosene on her. Based on the said statement Crime No.68 of 2015 was registered against the applicant for the offence under Section 307 of I.P.C. The statement of the victim was also recorded by the Magistrate, wherein she had stated that she did not have any complaint against any person. The victim expired on 27.3.2015. The postmortem report reveals that she had expired due to burn injuries. Accordingly,

Section 302 IPC came to be substituted.

5. It is true that the dying declaration recorded by the Magistrate is at variance with the first information report. Nonetheless, there is material on record in the form of the statements of the children of the victim and the neighbourers wherein they have stated that the victim had pointed to the applicant and stated that the applicant had poured kerosene on her and set her on fire. There is prima facie material to show the involvement of the applicant in committing the offence which is of serious as well as heinous nature. The trial has not yet commenced. The witnesses, including the grand children of the applicant, as well as the neighbours are yet to be examined. Releasing the applicant on bail at this stage can hamper the trial.

6. Considering the above facts and circumstances, as well as the gravity of the offence, in my considered view the applicant is not entitled for bail. Hence the application for bail is rejected.

(ANUJA PRABHUDESSAI, J.)