

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

CRIMINAL BAIL APPLICATION NO. 2274 OF 2014

Dattatrya Jaisingh Dherenge. ... Applicant.
Versus
The State of Maharashtra. ... Respondent.

Mr. P.G. Sarda i/b. Ms. A.R. More, advocate for Applicant.

Ms. R.V. Newton, APP for State.

CORAM : SMT.SADHANA S. JADHAV,J
DATE : FEBRUARY 3, 2015

P.C.:

1 Heard the learned Counsel for the applicant and Learned APP for State. Perused the papers.

2 This is an application under section 439 of the Code of Criminal Procedure, 1973. The applicant herein is arrested on 27/11/2013 in Crime No. 273 of 2013 registered at Manchar Police Station initially for offence punishable under Section 307 and 498A of the Indian penal Code. However, subsequently Section 302 of the

Indian Penal Code was added. The investigation is completed and charge-sheet is filed on 18/2/2014. The applicant herein is the father-in-law of deceased Varsha. He is 72 years old.

3 It is the case of the prosecution that on 18/11/2013 daughter-in-law of the present applicant namely Varsha was initially admitted in Primary Health Center at Manchar with history of burn injury. Her statement was recorded by the API of Manchar Police Station. She has stated before the police that on 18/11/2013 at about 10.30 a.m. while she was cooking food on stove, there was sudden blast of the stove. Her clothes caught fire and at that time, her husband, father-in-law and brother-in-law were working in agricultural land. On the same day, she was thereafter referred to Sassoon Hospital and was admitted in Ward No. 25. She had again reiterated before the police of Rural Police Station, Pune that she had sustained accidental burns.

4 It is pertinent to note that medical case papers are not filed on record nor the Investigating Officer who is present in the court had

brought the medical papers alongwith him to ascertain the condition of Varsha subsequently.

5 On 19/11/2013 her statement was again recorded by Police Naik of Manchar Police Station. The said statement was recorded in Sassoon Hospital in which Varsha had disclosed that she was being harassed and ill-treated at the hands of her father-in-law, husband and brother-in-law. According to her, they were addicted to liquor. She has alleged that on 18/11/2013 her father-in-law i.e. the present applicant had asked her to cook food. She had replied by saying that the food is ready. In the mean while, there was a quarrel between her and her husband. They had abused her. Suddenly, her father-in-law and her husband had brought the can filled with kerosene and had poured it on her person. Her brother-in-law had caught hold of her. According to her, it was the present applicant, who had ignited match stick and thrown on her person.

6 The investigating Officer has also recorded the statement of the neighbour who had taken her to the hospital. The neighbours had categorically stated that on the day of incident, they had seen Varsha in flames and she had not disclosed anything to neighbours. However, brother-in-law had disclosed to the neighbours that she had immolated herself.

7 In the third statement, which is recorded on 19/11/2013, there is no reference to two previous statements recorded by police.

8 Taking into consideration the fact that the first two dying declarations had exonerated the present applicant, coupled with the fact that the applicant is 72 years old and would be entitled to grant of bail under the proviso to Section 437 of the Code of Criminal Procedure, 1973, this Court is of the opinion that the applicant has made out prima facie case for grant of bail. It is made clear that co-accused shall not claim parity with the present applicant.

9 The observations made hereinabove are prima facie in nature. The same shall not be considered while deciding the application for discharge or for quashing of the FIR or at the time of trial.

9 Hence following order is passed :

ORDER

- (i) The application is allowed.
- (ii) The applicant be enlarged on bail on furnishing P.R. Bond in the sum of Rs. 15,000/- and one or two sureties in the like amount.
- (iii) The applicant shall not tamper with the evidence.

10 The application is disposed of accordingly.

(SMT. SADHANA S. JADHAV,J)