

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

CRIMINAL APPLICATION NO.1269 OF 2015
IN
CRIMINAL APPEAL NO.1052 OF 2015

Chamya @ Avinash Uttam Kamble		Applicant
<i>Versus</i>		
State of Maharashtra		Respondent

Mr. Girish Bhimrao Badiger for the Applicant.

Smt. V.R. Bhonsale, A.P.P., for the Respondent-State.

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

DATE : 21ST DECEMBER 2015.

P.C. :

1. This application is preferred by the Original Accused seeking suspension of substantive sentence of imprisonment and his enlargement on bail during pendency of this Appeal.

2. The Applicant has been convicted for the offence punishable under Section 302 of IPC and sentenced to suffer imprisonment for life and to pay fine of Rs.2,000/-, in default to suffer R.I. for three months.

3. The submission of learned counsel for the Applicant is that there is no sufficient evidence on record against the Applicant. There is also discrepancy in the two Dying Declarations recorded by PW-7 API Madhukar Salunkhe and PW-8 PSI Amol Nandekar vide Exhibits 34 and 45 respectively. Therefore, the benefit of the same should be extended to the Applicant.

4. However, we are not inclined to accept this submission for the reason that there is sufficient evidence of two eye-witnesses, namely, PW-3 Kalicharan Pallan and PW-4 Murgan Chakliyan, who have seen the Applicant pouring petrol on the Deceased, when he was sleeping near them. There is also evidence of oral Dying Declaration made before PW-2 Tangam Palan. Further, there is evidence of PW-10 Sarvanan Pallan, who has seen the Applicant with the bottle of petrol near the door of factory, and the Dying Declaration (Exhibit-34), as recorded by PW-7 API Madhukar Salunkhe. Though in the Dying Declaration (Exhibit-45) recorded by PW-8 PSI Amol Nandekar, there is discrepancy relating to name of the Applicant, all the witnesses have identified the Applicant. They were knowing him since prior to the incident, as they were all working together.

5. In view thereof, in our considered opinion, no case is made out to release the Applicant on bail by suspending his substantive sentence of imprisonment. Therefore, the application stands dismissed.

[DR. SHALINI PHANSALKAR-JOSHI, J.] [ACTING CHIEF JUSTICE]