

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION**

BAIL APPLICATION NO.2370 OF 2015

Jitendra Pandharinath Jadhav

...Applicant

Versus

The State of Maharashtra

...Respondent

.....

Mr. Jayesh A. Vithlani for the Applicant.

Mr. S.S. Pednekar, APP for the Respondent -State.

CORAM : SMT. ANUJA PRABHUDESSAI, J.

DATE : 2nd DECEMBER, 2015.

P. C. :

This is an application for bail filed by the aforesaid Applicant, who is arrested in Crime No.215 of 2015 registered at Panchwati Police Station, Nashik, for the offences punishable under sections 302, 307, 498A, 323, 504 r/w. 34 of the IPC.

2. Mr. Jayesh Vithlani, the learned counsel for the Applicant submits that in the first dying declaration, the victim had stated that she had set herself on fire. In the subsequent dying declaration the victim has made an inconsistent and contrary statement. He has further stated that there is no prima facie material to show that the Applicant was involved in setting the deceased on fire. He has further

stated that the Applicant is in custody since 17.6.2015. The charge-sheet is already filed. He further submits that the victim has falsely implicated the Applicant herein.

3. Mr. S.S. Pednekar, the learned APP for the Respondent-State submits that apart from the said dying declaration there is one more dying declaration, which shows the involvement of the Applicant in a heinous crime. He further submitted that the trial has not yet commenced and considering the gravity of the offences this is not a fit case for grant of bail.

4. I have perused the records and considered the submissions advanced by the learned counsel for the Applicant and the learned APP for the Respondent-State. The Applicant is the husband of the deceased Aruna Jadhav. Said Aruna Jadhav had sustained burn injuries on 14.6.2015 and she was admitted in Civil Hospital, Nashik. She succumbed to the injuries on 18.6.2015. The post mortem report indicates that the death was due to septicaemia shock due to burn injuries.

5. The material on record indicates that the dying declaration of the deceased was recorded on 15.06.2015 at 00.05 hours, wherein

she had stated that there was a quarrel between her and her husband and that her husband had assaulted her, due to which she had set herself on fire. In the subsequent statement the victim had claimed that the Applicant herein had poured kerosene on her body and set her on fire. Prima facie there appears to be inconsistency in both these dying declarations.

6. It is also to be noted that the statements of the victim reveal that the owner of the house, Mr. Khairnar was the first person to reach the place of the incident and extinguish the flames. The statements of Khairnar and his son reveal that they had seen the victim Aruna in a totally burnt condition and that she was groaning. The statements of these two witnesses do not indicate that the victim Aruna had told them that the Applicant herein had set her on fire. On the contrary these statements prima facie reveal that the Applicant was not present in the house at the relevant time and that he had come to the house subsequently.

7. Considering the nature of the allegations levelled against the Applicant and the inconsistency in the dying declaration, in my considered view this is a fit case for grant of bail. Moreover the

charge-sheet is already filed and the presence of the Applicant is not required in the custody.

8. In the facts and circumstances, the application is allowed on the following terms and conditions:-

- (I) The Applicant is ordered to be released on bail on furnishing P.R. bond of Rs.20,000/- (Rupees Twenty Thousand only) with one or two sureties in the like amount to the satisfaction of the Sessions Court, Nashik.
- (II) The Applicant shall attend the Sessions Court, Nashik, on each and every date of the hearing.

(ANUJA PRABHUDESSAI, J.)