

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
NAGPUR BENCH AT NAGPUR

CRIMINAL APPLICATION (BA) NO. 687 OF 2015

(Nanubhau M. Watane Vs. The State of Maharashtra)

Office Notes, Office Memoranda of Coram,
appearances, Court's orders of directions
and Registrar's orders

Court's or Judge's orders

CORAM : V. M. DESHPANDE, J.

DATED : 15th OCTOBER, 2015

By the present application the applicant is seeking his enlargement on bail since the applicant is arrested in connection with Crime No.169/14 registered with police station Asegaon of District Amravati for the offence punishable under Sections 498-A, 307, 302 read with Section 34 of the Indian Penal Code.

2. Heard Shri P. W. Mirza, learned Counsel for the applicant and Smt. Udeshi, learned Additional Public Prosecutor for the respondent-State.

3. The applicant is father-in-law of deceased Sanchali @ Pranali Watane. Her marriage took place with the son of the applicant, Kishor on 08/7/2012. The incident took place in the intervening night between 12th and 13th October, 2014.

4. First information report is lodged by Gaurav, the brother of the deceased. Initially, offence under Section 498-A, 307 read with Section 34 I.P.C. was registered.

Subsequent to the death of Sanchali @ Pranali on 20/10/2014, the offence was converted into the offence punishable under Section 302 of I.P.C.

5. The entire case of the prosecution rests on the dying declarations of deceased Sanchali. These two dying declarations are dated 13/10/2014 and 16/10/2014. Both these dying declarations are recorded by the Police Officer. Though the deceased was alive till 20/10/2014, it appears that no attempts were made by the investigating agency to record her dying declaration through the Magistrate.

6. The postmortem report shows that at the time of conducting autopsy, the Autopsy Surgeon noticed 98% burn injuries. He described the percentage of burn in Column-17 of the said report. It shows that both limbs of the deceased suffered 18% burn injuries. By that, one could reach to a prima-facie conclusion that upper limbs were completely charred. The inquest was done immediately after her death. Inquest panchanama shows that her both hands till her palm are completely charred and bandages were applied. In this background, if the dying declaration dated 13/10/2014 is perused, it is having thumb impression of the deceased. The said thumb impression, through naked eye, shows clear-cut ridges and curves, which itself creates suspicion at least while

considering the application for bail. Further, prior to recording of her dying declarations, there is nothing available in the charge-sheet to show that she was medically examined by the doctor and the doctor had given certificate that the lady was fit to give her statement. This aspect is candidly admitted by the learned Additional Public Prosecutor.

7. Insofar as the second dying declaration is concerned, which is dated 16/10/2014, apart from the fact that the said dying declaration, there was no medical certification about the fitness of the victim, the said dying declaration is not having any thumb impression of the deceased either of toe of the deceased.

8. The learned A.P.P. submitted that initially, prior to filing of the present application, a prior application was moved by the present applicant and it was not considered by this Court. The said order is placed on record. That order shows that the application of the applicant was not considered by this Court on merit. It was considered only on the medical ground, which the applicant raised at the time of consideration of the said bail application.

9. The entire case of the prosecution rests on the two dying declarations. Prima facie the dying declarations are suspicious in nature. Therefore, merely because the charge is

framed and when there is no progress in the trial, the personal liberty of the applicant cannot be curtailed, that leads me to pass the following order.:

i) Applicant Nanubhau M. Watane be released on bail on his executing a P.R. Bond in the sum of Rs.25,000/- with two solvent sureties in connection with Crime No.169/14 registered with police station Asegaon of District Amravati for the offence punishable under Sections 498-A, 307, 302 read with Section 34 of the Indian Penal Code.

ii) Bail before the trial Court.

iii) The applicant shall attend regularly the trial Court and shall not try to protract or prolong the sessions trial.

With this, the application is allowed and disposed of.

JUDGE