

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY,
NAGPUR BENCH, NAGPUR.**

Criminal Application (APPA) No. 641 of 2015

(Sadikali S/o Asadali Vs. The State of Maharashtra through P.S.O., P.S.
Hiwarkhed, Dist. Akola)

in

Criminal Appeal No. 75 of 2015

(Masoodali Sadikali and anr. Vs. The State of Maharashtra through P.S.O.,
P.S. Hiwarkhed, Dist. Akola)

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

Court's or Judge's order

Shri R. M. Daga, Advocate for the applicant
Shri T. A. Mirza, APP for the State/non-applicant

CORAM : B. R. Gavai and P. B. Varale, JJ.

DATE : 7-10-2015.

This is an application for suspension of sentence and grant of bail. The applicant is the father in law of deceased. It is prosecution case that the applicant's son i.e. husband of the deceased and the daughters of the applicant were ill-treating the deceased on account of non-fulfillment of demand of dowry. It is the case of prosecution that on the fateful day, the applicant and his son poured kerosene on the person of the deceased and set her on fire.

Perusal of the record would reveal that the prosecution initially relied on oral dying declaration given to the mother of the deceased as well as two dying declarations recorded by two Executive Magistrates.

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We have perused the dying declarations. One is at Exhibit 138 and second is at Exhibit 142. Insofar as dying declaration at Exhibit 142 is concerned, the role of pouring kerosene is attributed to both viz. the applicant and his son. However, insofar as the dying below Exhibit 138 is concerned, the role of pouring kerosene and setting of fire is attributed only to son of the applicant.

The applicant is aged about 70 years. The applicant has already undergone the sentence of 3½ years. Taking into consideration the fact that the applicant is aged person and we find further there are conflicting dying declarations, the applicant is entitled to suspension of sentence and grant of bail.

The judgment and order of conviction is, therefore, suspended.

The applicant is directed to be released on bail on furnishing P.R. bond in the sum of Rs. 15,000/- with one or two sureties in the like amount.

JUDGE

JUDGE

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