

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

Criminal Application [BA] No.835 of 2014

(Sau. Parvatabai w/o Eknath Tangade and another
 vs.

The State of Maharashtra, through P.S.O., Mehkar, District Buldana)

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Office notes, Office Memoranda of
 Coram, appearances, Court's orders
 or directions and Registrar's orders.

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Court's or Judge's Orders

CORAM : PRASANNA B. VARALE, J.

DATE : JANUARY 12, 2015.

Heard Mr. R.M. Daga, the learned Counsel for the applicants and Mr. A.H. Laddhad, the learned A.P.P. for the State.

The applicants are before this Court seeking their enlargement on bail in connection with Crime No.115/2014, registered at Mehkar Police Station, District Buldana initially for the offences punishable under Sections 307, 498-A read with Section 34 of the Indian Penal Code and subsequently added Section 302 of the Indian Penal Code.

The report was lodged at the instance of the brother of victim viz. Vitthal Dahatonde. It was submitted in the report that the marriage of sister of Vitthal viz. Sarla was solemnized with one Ananta Tangade prior to 12-13 years of the incident. It is stated in the report that Ananta was addict of vices and was doing nothing except consuming liquor. It is the statement of

the brother Vitthal that his sister was subject to mental and physical ill-treatment. He further submitted that sometime in the year 2010, his sister Sarla fed up with the ill-treatment of matrimonial relations, left her matrimonial home and took shelter with her parents. With the intervention of the members of Women Grievances Redressal Cell, she again started residing with her matrimonial relations. On 15/07/2014, an information was received by Vitthal that his sister is admitted in the hospital and she is subjected to burn injuries. On rushing to the hospital and making inquiry with Sarla, it was informed that the husband of Sarla viz. Ananta demanded money for consumption of liquor and on denial, he set Sarla on fire and the applicants instigated the husband of Sarla.

The learned Counsel for the applicants submitted that the applicants are the aged parents of accused Ananta. He further submits that in the process of investigation, the agency recorded as many as three dying declarations. His submission is, there is a material variance in all these dying declarations. He submits that the dying declaration, which was recorded first in point of time, is silent on any role played by the applicants. He further submits that in the subsequent dying declarations, story of instigation of the applicants is developed. He further submits that the investigating agency concluded investigation by filing charge-sheet. Considering the allegations of setting the victim

on fire, all the necessary material in the form of recording of statements and medical evidence is collected by the investigating agency and there is nothing allegedly incriminating against the applicants to be recovered. He further submits that the applicants are behind the bars for more than six to seven months and considering that it may take some time to commence the trial and conclude the same, keeping the old aged applicants behind the bar would serve no purpose. Thus, the learned Counsel for the applicants prays for enlargement of the applicants on bail.

The learned A.P.P. vehemently opposes the application. He submits that the applicants have prepared their mind to see that their daughter-in-law meets such a consequence, which would endanger her life. He submits that the present incident is not the solitary incident of ill-intention of the applicants, but in the year 2010 also, similar nature of allegations were levelled against the applicants. He then submits that most of the witnesses are the residents of the same locality and as such there is an apprehension that the applicants may pressurize the witnesses. The learned A.P.P., therefore, prays for rejection of the application.

The learned Counsel for the applicants, in support of his submission, placed reliance on the judgment of the Apex Court in the matter of Anil Ari vs. State of West Bengal

reported in ALL MR (Cri) 1753. The learned A.P.P. made available the material collected by the investigating agency.

I have gone through the dying declarations recorded by the investigating agency. The perusal of the dying declarations shows that the material reveals that everything was not well between the couple. The victim-wife was subjected to ill-treatment at the instance of her husband, who was addicted to vices of liquor. The perusal of the dying declarations recorded by the investigating agency shows that in the first dying declaration, the victim alleges that her husband and the applicants, namely the father-in-law and mother-in-law, poured kerosene and made demand of money. It is further stated that her matrimonial relations fled away from the spot when the residents of the locality made attempt to provide immediate help to the victim. The subsequent dying declaration, which is recorded on the next date, refers to the instigation at the instance of the applicants. The oral statements of mother and sister of the victim and the driver of vehicle (Apey), in whose vehicle the victim was shifted to the hospital, state a lead role played by the husband, who is addicted to vices.

Considering the fact that the investigation is now concluded and the applicants are in their advanced age couple with the fact that the alleged death of the victim caused due to setting the victim on fire by the husband and allegations of

instigation against the applicants, in my opinion, the learned Counsel for the applicants has made out a case for enlargement of the applicants on bail. The learned Counsel submits that the applicants would reside at Mehkar.

In view of this undertaking to this Court, the apprehension of the State can be taken care of.

In the result, the application is allowed. The applicants be released on bail on their furnishing P.R. Bond in the sum of Rs.20,000/- (Rupees Twenty Thousand Only) each with one or two solvent surety for each in the like amount on the following conditions.

- i. The applicants to reside at Mehkar, District Buldana till the trial commences and to report Mehkar Police Station on third and fourth Sunday of this month and from the next month onwards on every second and fourth Sunday of the month from 09:00 a.m. to 12:00 p.m.
- ii. The applicant shall not tamper with the evidence nor commit any act such as contacting the prosecution witnesses or pressurize them.
- iii. The applicant to submit their residential addresses and contact numbers, such as phone/mobiles numbers, to the investigating agency.
- iv. In case the applicants are moving out of the area of Mehkar Police Station, they shall take permission and

inform the concerned Police Station about their visits to other place.

In case of any breach of the conditions by the applicants, the State would be at liberty to move this Court.

Needless to say that these are the observations of the Court while deciding the present bail application and the learned Sessions Judge may not be influenced by these observations while conducting the trial.

The application is disposed of as such.

JUDGE

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