

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

Criminal Application [ABA] No.664 of 2014

(Sau. Shobha w/o Pandurang Saradar

vs.

The State of Maharashtra, through P.S.O., Ner, District Yavatmal)

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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. J.B. Kasat, the learned Counsel for the applicant and Mrs. S.S. Jachak, the learned A.P.P. for the State.

The applicant is before this Court seeking protection in the nature of her pre-arrest bail in connection with Crime No. 252/2014, registered at Ner Police Station, District Yavatmal for the offences punishable under Section 302 read with Section 34 of the Indian Penal Code.

The perusal of the order-sheet shows that this Court by order dated 23/12/2014 granted interim protection to the applicant. The perusal of the report of which a copy is placed on record shows that the F.I.R. is lodged at the instance of one Sou. Jyoti Mahure. The perusal further shows that the declaration of Jyoti was recorded. The declaration reveals that prior to two days of the incident, which occurred on 07/11/2014, a quarrel took place between the victim and

members of Sirsat family and Saradar family. The declarant states that the present applicant and the other accused abused the declarant in filthy language. She further states that on 07/11/2014, in the morning hours at about 10:30 hours, on account of the quarrel, which took place two days earlier, the accused Swapnil Pandurang Saradar entered in the residence of the complainant, he poured kerosene from lantern and set the victim on fire and after commission of this act, the accused fled away from the spot. The victim initially was admitted in the Government Hospital at Ner and thereafter in the Government Hospital at Yavatmal.

The learned Counsel for the applicant vehemently submitted that though not admitting but assuming the report and declaration as it is, the only role attributed to the present applicant is of abusing the victim, that too two days prior to the actual incident. He further submits that in the so called dying declaration recorded by the investigating agency, attribution to the act of setting the victim on fire is to Swapnil Saradar. He further submits that the applicant is the lady in her advanced age and doing her household activities. He further submits that on the basis of the allegations, it will not be justified to deny the liberty to the present applicant, as there is no need of any custodial interrogation at the instance of the present applicant.

The learned A.P.P. opposes the application.

The perusal of the reply filed by the State only reiterates the fact that a quarrel took place prior to two days of the actual incident and the applicant participated in that quarrel along with other accused. The other reason is, the main accused Swapnil is the son of the present applicant.

Considering the above referred facts and the submission of the learned Counsel for the applicant, in my opinion, the protection cannot be denied to the present applicant on the backdrop of the fact that there is no role attributed to the present applicant in the actual incident and merely because the main accused is the son of the applicant. The apprehension, if any, of the State can be taken care of by imposing certain conditions on the applicant. The learned Counsel for the applicant has made out a case.

The interim protection granted by this Court on 23rd December, 2014, is confirmed with the condition that the applicant to attend Ner Police Station, District Yavatmal, on every second and fourth Sunday of each month from 09:00 a.m. to 11:00 a.m. till filing of the charge-sheet.

The application is allowed and disposed of accordingly.

JUDGE

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