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**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD**

CRIMINAL APPLICATION NO. 1058 OF 2016

1. Santosh s/o Shivaji Kamble,
2. Shivaji s/o Limbaji Kamble ..APPLICANTS

VERSUS

The State of Maharashtra ..RESPONDENT

Mr S.N. Lale Yelwatkar, Advocate for applicants;
Mr S.J. Salgare, Addl. Public Prosecutor for respondent

CORAM : N.W. SAMBRE, J.

DATE : 3rd March, 2016

ORDER :

By the present application under section 439 of the Code of Criminal Procedure, the applicants seek their release on bail, in connection with C.R. No.38 of 2015, registered with police station, Killari, Tq. Ausa, Dist. Latur, for offences punishable under sections 302, 304-B read with section 34 of the Indian Penal Code.

2. At the outset, learned Counsel appearing on behalf of the applicants, upon instructions, seeks leave to withdraw the application for and on behalf of applicant no.1 Santosh s/o Shivaji Kamble. Leave granted. Criminal Application stands dismissed as withdrawn as against applicant no.1.

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3. The prosecution case is that applicant no.2 is the father of applicant no.1 and they were instrumental in burning the victim Amrapali, who was wife of applicant no.1 and daughter-in-law of applicant no.2. It is claimed that as the parents of victim Amrapali did not fulfill the demand of dowry, applicant no.2 poured kerosene on her, whereas applicant no.1 – her husband, has set her ablaze.

4. Applicant no.2 came to be arrested on 28th April, 2015.

5. While trying to make out a case for grant of bail, learned Counsel appearing on behalf of applicant no.2 would urge that applicant no.2 is entitled for bail in view of the fact that there are no criminal antecedents, the investigation is complete, the charge-sheet is filed, advance age of the applicant no.2 i.e. 75 years and the ailment with which he is suffering.

6. Learned Addl. Public Prosecutor opposed the application on the ground that there is a dying declaration of the victim, which has directly implicated applicant no.2 in the crime in question. He would then submit that the victim has also stated about involvement of applicant no.2 in the crime in question to her parents and as such, the said aspect goes against applicant no.2.

7. Having considered the submissions, it is required to be noted that applicant no.2 claims to be of an advance age, i.e. 75 years and is not keeping good health, as is apparent from the medical papers of

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Government Medical College & Hospital, Latur, which are placed on record. The role attributed to applicant no.2 is that of pouring kerosene on the victim, whereas the son of applicant no.2, i.e. applicant no.1 has set the victim on fire.

8. Having regard to the fact that there are no criminal antecedents against applicant no.2, investigation in the matter is complete, charge-sheet is filed and looking to his advance age and ailment with which he is suffering, in my opinion, he deserves to be released on bail. I, therefore, pass following order :-

The applicant no.2 Shivaji s/o Limbaji Kamble be released on bail, in connection with C.R. No.38 of 2015, registered with police station, Killari, Tq. Ausa, Dist. Latur, for offences punishable under sections 302, 304-B read with section 34 of the Indian Penal Code, on furnishing P.R. Bond of Rs.10,000/- with one surety in the like amount.

Criminal Application stands allowed in above terms.

(N.W. SAMBRE, J.)

amj