

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

CRIMINAL APPLICATION NO. 1807 OF 2016

Birmal s/o Suryabhan Tarange,
Age : 45 years, Occu. Agriculture
and Service, R/o Ratnapur, Taluka
Paranda, District Osmanabad

APPLICANT

VERSUS

The State of Maharashtra,
through Police Inspector,
Police Station, Ambi,
Tq. Paranda, Dist. Osmanabad

RESPONDENT

Mr. N.P. Patil-Jamalpurkar, Advocate holding for
Mr. Mukund S. Patil, Advocate for the applicant
Mr. A.S. Shinde, A.P.P. for the respondent-State
Mr. A.R. Devakate, Advocate to assist the A.P.P.

CORAM : M.T. JOSHI, J.

DATE : 04/04/2016

ORAL ORDER :

1. Heard both sides.
2. The present applicant who is apprehending his arrest at the hands of Ambi Police Station, Taluka Paranda, District Osmanabad in Crime No. 13/2016, registered for the offences punishable under section 306 and 498A of the Indian Penal Code, is praying for his

release on bail in the event of his arrest.

3. The wife of the present applicant i.e. the sister of the complainant has died due to suffering of burn injuries on 21st January, 2016. She was initially taken to the hospital at Barshi. However, as she had suffered 90% burn injuries, she was immediately shifted to the hospital at Solapur on 22nd January, 2016. However, on the same day, she died.

4. It appears from the contents of the present complaint that before making this complaint to the learned Judicial Magistrate First Class on 18th February, 2016, the complainant had approached various police authorities for registration of the crime. However, ultimately as no crime was registered, the complaint to the learned Judicial Magistrate First Class was made.

5. It is alleged in the present complaint that the deceased and the present applicant were married to each other in the year 1989. However, the present applicant being an influential political leader had established an educational institution and he started harassing the deceased on the ground that certain land which was in

the name of the complainant be transferred in his name for establishing and running a school. Many a times, an understanding was given to the applicant. However, he did not pay any heed to the same. Ultimately, on 21st January, 2016, under the influence of liquor and also as the applicant had illicit relations with other woman, he bet the deceased and in the circumstances, the deceased set herself on fire. In the said incident, the deceased had clung to the applicant. However, the applicant pushed her away and thereafter, admitted her to the hospital.

6. It is alleged in the present complaint that the complainant had been to the Ambi police Station. However, the FIR was not accepted there and thereafter, he went to the office of the Superintendent of Police, Osmanabad. The Superintendent of Police, however, directed him to approach the police station where the complainant's statement was recorded. However, at the time of recording the statement of the complainant, the version of the complainant was not recorded. Therefore, the complaint is made to the Superintendent of Police. However, as no cognizance of the offence was taken, the

complaint before the learned Judicial Magistrate First Class was filed.

7. Learned counsel for the applicant submitted that the complaint is belated one. The say of the investigating officer filed in the sessions court while opposing similar application there, would show that the dying declaration of the deceased was recorded while she was admitted to the hospital at Solapur wherein she had stated that due to accident, she had sustained the burn injuries. She had further stated that there was dispute over a land between the applicant and the complainant. Further, the applicant also suffered injuries in the same incident. However, finding that the deceased has died due to suffering of burn injuries, false allegations are made against the applicant. In the circumstances, the learned counsel for the applicant prayed that the applicant be released on bail in the event of his arrest.

8. The learned A.P.P. and the learned counsel assisting to A.P.P., on the other hand, opposed the application. They submitted that since the applicant is an influential political leader, the crime was not

registered and therefore, belated filing of the complaint before the learned Judicial Magistrate First Class would not show that the false allegations are made. In the circumstances, they submitted that the application be dismissed.

9. Upon hearing both sides, in my view, following glaring facts will have to be taken into consideration :

. That, the dying declaration of the deceased was recorded in civil hospital at Solapur wherein she made a statement that she had received the burn injuries in an accident. The copy of the complaint said to have been made on 25th January, 2016 to the Superintendent of Police, Osmanabad, now placed by the learned counsel assisting the learned A.P.P., which is accepted on record and marked "X" for the purpose of identification, would show the different nature of the complaints between the deceased and the applicant regarding certain salary to be paid to the wife of the complainant and implication of more persons who are in the employment of the said school where allegedly, his wife was serving.

10. Taking into consideration the overall facts, in

my view, the custodial interrogation of the present applicant is not required. In the circumstances, the following order.

11. In the event of arrest of the present applicant in Crime No. 13/2016, registered with Ambi Police Station, Taluka Paranda, District Osmanabad, for the offences punishable under section 306 and 498A of the Indian Penal Code, he be released on bail on his executing P.R. bond in the sum of Rs. 15,000/- (rupees fifteen thousand) and also upon furnishing surety in the like amount.

12. The applicant to attend the investigating officer/concerned police station between 09.00 a.m. and 10.00 a.m. for four consecutive Tuesdays commencing from 12th April, 2016.

13. The present application is accordingly allowed and disposed of.

[M.T. JOSHI]
JUDGE