

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

911 CRIMINAL APPLICATION NO. 3853 OF 2016

BHIKA S/O SAKHARAM KAMBLE

VERSUS

THE STATE OF MAHARASHTRA

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Mr. V.G.Salgare, Advocate for Applicant.

Mr. S.M.Ganachari, A.P.P. for Resp. – State.

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CORAM : A.M.BADAR, J.

DATE : 18th AUGUST, 2016

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PER COURT :

1. The applicant/accused in Crime No. I-111/2016 registered with Khultabad police station, Tq. Khultabad, Dist. Aurangabad for the offences punishable U/ss 307,143,149,223,504,506 of the Indian Penal Code at the instance of Ujwala Dadarao Kamble, by this application is seeking pre-arrest bail.

2. Heard learned counsel for the applicant, who

argued that at the time of the alleged offence, present applicant was present at the school at Shrirampur. He further argued that no specific role is attributed to the applicant in the crime in question. The allegations are vague.

3. Learned A.P.P. opposed the application by submitting that apart from the informant, her mother-in-law Subhadrabai has categorically named the applicant as a person involved in the commission of crime.

4. I have also heard the learned counsel appearing for the informant. He argued that on 27/06/2016, informant had lodged report with Superintendent of Police regarding commission of several offences by Sumitkumar as well as by the applicant. He also argued that when the informant was admitted in the hospital, present applicant had threatened her and accordingly non cognizable offence No. 591/2016 is registered.

5. Perused papers of investigation. The allegations as against the accused persons, as reflected from the F.I.R., are to the effect that initially the informant Ujwala had eloped with Sumitkumar @ Bunty, who is son of present applicant. Subsequently, on 21/06/2016 at about 6.00 - 6.30 p.m., accused persons, by forming an unlawful assembly, attempted to commit murder of informant Ujwala by pouring kerosene on her person and setting her ablaze.

6. Informant Ujwala has stated in the F.I.R. that

Alkabai, Yamunabai and Vijayabai caused her fall and Sukhdeo Kamble poured kerosene on her person. She then alleged that Yamunabai set her ablaze by throwing burning match stick on her. According to the informant, her husband Dadarao extinguished fire. So far as present applicant is concerned, informant Ujwala had stated that he was one amongst other accused persons, who abused her. Statement of Dadarao Kamble, husband of the informant who extinguished the fire, does not show presence of applicant at the scene of the offence. Tarabai and Hirabai are eye witnesses to the crime in question. Their statements do not show that the present applicant was at the scene of the offence. Even otherwise, the informant had stated about mere physical presence of the applicant. Therefore, *prima facie*, it can not be said that the present applicant was the member of unlawful assembly having common object of commission of murder of informant Ujwala. Considering the role attributed to him in the crime in question, his custodial interrogation is not warranted.

7. It is alleged that the present applicant had threatened the informant. Necessary care of this aspect can be taken by imposing stringent conditions. It is needless to mention that arrest bring stimulation and is a fear reaching consequence not only against the present accused of the crime but also of his family members. In that view of the matter, the following order is passed.

(i) The Order dated 21/07/2016 passed by this Court

is confirmed on same terms and conditions.

- (ii) In addition, the applicant shall not extend any threat, inducement or promise to the persons acquainted with the facts of the accusation so as to dissuade them from disclosing the same either to the police or the Court.
- (iii) The applicant shall not tamper the evidence of the prosecution.
- (iv) The applicant shall attend concerned police station on every Sunday between 11.00 a.m. and 1.00 p.m. till filing of the charge sheet.

[A.M.BADAR, J.]