

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

CRIMINAL APPLICATION NO. 4267 OF 2016

1. Jaydrath s/o. Kundlik Maske .. Applicants
Age. 57 years, Occ. Service,
R/o. Sonwala, Tq. Ambejogai,
Dist. Beed.
2. Suman w/o. Jaydrath Maske
Age. 50 years, Occ. Household,
R/o. As above.
3. Dipak Jaydrath Maske
Age. 26 years, Occ. Labour,
R/o. As above.

Versus

The State of Maharashtra .. Respondent

Mr.Dhananjay B. Thoke, Advocate for applicants.
Mr.A.S. Shinde, APP for respondent/State.

**CORAM : A.M. BADAR,J.
DATED : 15.10.2016**

P.C. :-

1. Applicants/accused in Crime No.50 of 2016, registered with Dharur Police Station, Dist. Beed, for offences punishable under sections 307, 302, 498-A, 120-B read with section 34 of the Indian Penal Code, by this application, are seeking their release on bail after filing of the charge-sheet.

2. Heard learned counsel for applicants as well as learned A.P.P.

3. Learned A.P.P. opposed the application by contending that supplementary statement of the informant/injured goes to show that the incident in question took place because of instigation as well as conspiracy of the present applicants and therefore the application is liable to be rejected.

4. Perused the charge-sheet. The crime in question is registered on the basis of statement of Vidya Maske recorded while taking treatment in Hospital at Ambajogai on 26.05.2016. The incident in question took place in the night intervening 25.05.2016 and 26.06.2016 in the house of the informant. According to the prosecution case, on 25.05.2016 in the night hours, the informant Vidya along with her husband i.e. accused Suresh and their son Yash slept inside the house made up of tin sheets; whereas other inmates of the house slept outside. At about 01.00 a.m. of 26.05.2016, Vidya sensed that something is there on her person and she smelled kerosene. She saw her husband i.e. accused Suresh with a can of kerosene. Therefore, Vidya rushed outside the house. At that time she heard sound of cries of her son

Yash. It is averred by the informant that then applicant – Dipak rushed inside the house and brought her son Yash out of the house in burnt condition. At that time, as per version of the informant, her husband i.e. accused Suresh was inside the house. The F.I.R. itself reveals that the applicant No.3-Dipak sustained burns to his hand.

5. Perusal of the F.I.R. as such goes to show that it was co-accused Suresh, who had set his son Yash ablaze, after failing of his attempt to incinerate his wife Vidya. Yash succumbed to his burn injury on 26.05.2016. In the process son Yash and applicant No.3-Dipak sustained burns.

6. The supplementary statement of the informant was recorded on 30.05.2016 i.e. after death of Yash. In that statement, she opined that her husband i.e. co-accused Suresh, her father-in-law Jaydrath, her mother-in-law Suman and her brother-in-law applicant No.3-Dipak are responsible for the incident. This is opinion of the witness of the fact, which is of no assistance.

7. Considering the nature of evidence against applicants and the fact that no overtact is attributed to them in the F.I.R. lodged by the informant – Vidya,

further pre-trial detention of the present applicants is not warranted. Hence, the following order :-

O R D E R

- i) The application is allowed.
- ii) Applicants/accused – Jaydrath s/o. Kundlik Maske, Suman w/o. Jaydrath Maske and Dipak Jaydrath Maske Crime No.50 of 2016, registered with Dharur Police Station, Dist. Beed, for offences punishable under sections 307, 302, 498-A, 120-B read with section 34 of the Indian Penal Code, be released on bail on executing P.R.Bond of Rs.15,000/- [Rupees Fifteen Thousand] and on furnishing surety in the like amount, by each of them.
- iii) As a condition of this Order, applicants 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.
- iv) Applicants shall not tamper the evidence of the prosecution.
- v) Applicants to co-operate the trial Court in the expeditious disposal of trial against them.

[A.M. BADAR, J.]