

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

908 CRIMINAL APPLICATION NO. 4557 OF 2016

**SUBHASH S/O DNYANOBA AVCHAR
& ANR.**

VERSUS

THE STATE OF MAHARASHTRA

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Mr. S.J.Salunke, Advocate for Applicant.

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

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CORAM : A.M.BADAR, J.

DATE : 28th SEPTEMBER, 2016

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PER COURT :

1. Applicants, who are accused in Crime No. 41/2016 registered at Wadwani police station, Beed, Dist. Beed for the offences punishable u/ss 302,498-A,504 read with 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/accused. By drawing my attention to the Order passed by this Court on 03/08/2016 in Criminal Application No. 3105 of 2016, learned counsel submitted that co-accused Sujata Awachar

having similar role is directed to be released on pre-arrest bail by this Court and as such on the ground of parity, present applicants are also entitled for bail. Learned counsel also drew my attention to the supplementary statement of father of deceased Pratibha and argued that just few hours prior to the incident, parents of Pratibha were with her at the house of accused persons. Learned counsel further argued that in the incident in question, applicant Subhash Avchar also suffered burn injuries, which is a conduct incompatible to his guilt.

3. Perused charge sheet including the dying declaration of Pratibha. This dying declaration recorded initially on 25/04/2016 is to the effect that co-accused Sujata [who is released on pre-arrest bail by this Court] and applicant Nandubai poured kerosene on her person and then Nandubai, Sujata and Subhash set her ablaze. Oral dying declarations of Pratibha are similar in nature.

4. In this factual back-drop, as co-accused Sujata is granted pre-arrest bail by this Court vide Order dated 03/08/2016 in Criminal Application No. 3105 of 2016 and as the said order has attained finality, no other course of action is permissible. Therefore, on the ground of parity, as co-accused with similar allegations is granted pre-arrest bail, present applicants will have to be released on bail after filing of the charge sheet. Hence, the following order.

(i) The application is allowed.

(ii) Applicant No. 1 Subhash s/o Dnyanoba Avchar and applicant No. 2 Nandubai D/o Dnyanoba Avchar in Crime No. 41/2016 registered at Wadwani police station, Beed, Dist. Beed for the offences punishable u/ss 302,498-A,504 read with 34 of the Indian Penal Code be released on bail on executing P.R. Bond of Rs. 15,000/- [Rupees Fifteen Thousand] each and on furnishing surety in the like amount.

(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.

[A.M.BADAR, J.]