

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

913 CRIMINAL APPLICATION NO. 4721 OF 2016

PANDIT S/O GUNDERAO MANKESHWARE

VERSUS

THE STATE OF MAHARASHTRA

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Mr. S.A.Patil h/f Mr. V.D.Salunke, Advocate for
Applicant.

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

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CORAM : A.M.BADAR, J.

DATE : 30th AUGUST, 2016

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PER COURT :

1. Applicant/accused in Crime No. 39/2016 registered at Deoni police station, Dist. Latur for the offences punishable u/ss 302,307,323,504 of the Indian Penal Code by this application is seeking his release on bail after filing of the charge sheet.

2. Heard learned counsel for the applicant. He argued that there is delay of 3 days in recording F.I.R. He submitted that false F.I.R. is registered against the applicant

without there being any motive. Deceased Mangalbai Panditrao Mankeshwar suffered suicidal death. It is further argued that the applicant himself tried to extinguish the fire and, therefore, his both hands were burnt in the incident. Learned counsel further argued that after completion of investigation, there is no question of recovering anything from the applicant. Therefore, the applicant deserves to be released on bail.

3. Heard learned A.P.P.

4. Perused the charge sheet. The crime in question allegedly took place on 29/02/2016 at 10.00 a.m. at the residential house of the present applicant. Present applicant is husband of deceased Mangalbai. On the basis of statement of Mangalbai recorded by the Police Station Officer of Gandhi Chowk Police Station, Latur at Govt. hospital, Latur, the crime in question came to be registered on 02/03/2016.

5. Charge sheet shows that Mangalbai died because of burn injuries on 04/03/2016. As such, her statement recorded by the police officer becomes her dying declaration. In her statement, Mangalbai had stated that on 29/02/2016 at 10.00 a.m. when she was doing Pooja, present applicant came after consuming liquor and started demanding documents of title of the agricultural land in order to sell it out. When Mangalbai refused, the applicant slapped her and poured kerosene on her person. Thereafter, as per the statement of Mangalbai, when she snatched match box from the hand of

the applicant, the applicant threw the burning lamp kept in front of the deities on the person of Mangalbai causing burn injuries to her.

6. During investigation, statement of several neighbourers are recorded by the Investigating Officer. Those neighbourers are consistently stating oral dying declaration of deceased Mangalbai. Oral dying declaration coming on record from the statements of several neighbourers of deceased Mangalbai and present applicant is consistent with the officially recorded dying declaration of Mangalbai by the Police Station Officer. Postmortem report shows that Mangalbai died because of septicemia due to burns. Her death *prima facie* is homicidal in the wake of her officially recorded dying declaration as well as oral dying declaration.

7. Except oral submissions of the learned counsel for the applicant that there is dying declaration reflecting suicidal death, there is no record to show that deceased sustained burns self-inflicted by her. There is no reason to disbelieve the consistent dying declarations of the deceased. Merely because the applicant suffered simple burn injuries to his hands, dying declarations of the deceased Mangalbai can not be jettisoned.

8. In this view of existence of *prima facie* evidence for the offence punishable u/s 302 of the Indian Penal Code against the applicant, no case for bail is made out.

9. Hence, the application stands rejected.

10. Needless to mention that the above observations are *prima facie* in nature and the trial Court will not be influenced by the same.

[A.M.BADAR, J.]

KNP/Cr.Apln. 4721.2016