

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

**5 CRIMINAL APPLICATION NO. 5146 OF 2016**

**BABAN SARJERAO PAWAR**

**VERSUS**

**THE STATE OF MAHARASHTRA**

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Mr. N.V.Gaware, Advocate for Applicant.

Mr. N.B.Patil, A.P.P. for Resp. – State.

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

**DATE : 23rd SEPTEMBER, 2016**

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**PER COURT :**

1. The applicant/accused in Crime No. 92/2016 registered at Belwaladi police station, Tq. Shrigonda, Dist. Ahmednagar for the offences punishable U/ss 307,302,355 (A),323,504,506 read with 34 of the Indian Penal Code, by this application is seeking pre-arrest bail.

2. Heard the learned counsel for the applicant. He argued that the applicant has no role whatsoever in the matter of alleged murder of Lata Sandeep Pawar by her husband. Therefore, according to the learned counsel for the applicant, as there is no iota of evidence against the present applicant in this crime, he needs to be granted pre-arrest bail.

3. The learned A.P.P. opposed the application by contending that presence of the applicant and the assault by him to the deceased Lata on 26/07/2016 is vouched by Devata, who is daughter of the deceased. The learned A.P.P. argued that there are dying declarations of the deceased.

4. Lata Sandeep Pawar died because of burn injuries sustained by her on 14/08/2016 at her matrimonial house. The accused Sandeep Pawar is her husband. Lata Sandeep Pawar [since deceased] is his second wife. Surekha Sandeep Pawar is first wife of accused Sandeep Pawar. Present applicant Baban Sarjerao Pawar is matrimonial uncle of first wife of accused Sandeep Pawar. The present applicant is residing in some other house at village Wadgaon.

5. The F.I.R. in question is lodged on the basis of the statement of Lata Sandeep Pawar, which, after her death, becomes her dying declaration. Some other dying declarations are also recorded prior to death of Lata Sandeep Pawar by the investigating agency. The role ascribed to the present applicant in the instant crime is to the effect that the present applicant used to instigate co-accused Sandeep Pawar to quarrel his second wife Lata Sandeep Pawar [since deceased]. No role is ascribed to the present applicant in the incident of incinerating Lata Sandeep Pawar by accused Sandeep Pawar on 14/08/2016.

6. In this view of the matter, custodial interrogation of the present applicant in the crime in question is not

warranted. Hence, the following order.

(i) The application is allowed.

(ii) In the event of his arrest in Crime No. 92/2016 registered at Belwaladi police station, Tq. Shrigonda, Dist. Ahmednagar for the offences punishable U/ss 307,302,355 (A),323,504,506 read with 34 of the Indian Penal Code, applicant Baban Sarjerao Pawar be released on bail on executing P.R. Bond of Rs. 15,000/- [Rupees Fifteen Thousand] and on furnishing surety in the like amount.

(iii) As a condition of this Order, 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.

(iv) The applicant shall not tamper the evidence of the prosecution.

(v) The applicant shall attend the concerned police station on 01/10/2016 and 08/10/2016 in between 11.00 a.m. and 1.00 p.m. and he should co-operate the Investigating Officer in the investigation of the crime in question.

**[A.M.BADAR, J.]**