

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

CRIMINAL APPLICATION NO. 5834 OF 2016

Krishna Rupsing @ Rupsen Rathod .. Applicant

Versus

The State of Maharashtra .. Respondent

Mr.S.G. Kawade, Advocate for the applicant.

Mr.A.S. Shinde, A.P.P. for respondent/State.

CORAM : A.M. BADAR,J.

DATED : 26.10.2016

P.C. :-

1. The applicant/accused in Crime No.30 of 2016, registered with Ambajogai Rural Police Station, Dist. Beed, for offences punishable under section 302, 307, 498-A, 323 read with section 34 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/accused. He argued that in first dying declaration deceased Vandana has stated that she was taken to hospital by Shantabai and ladies from the locality; whereas in her second dying declaration, Vandana has stated that her

father-in-law had taken her to the hospital. Therefore, according to learned Counsel for the applicant, the dying declarations of Vandana are doubtful. Learned Counsel further argued that co-accused in this case are already released on bail and therefore imposing conditions the applicant may also be released on bail.

3. Learned A.P.P. opposed the application by stating that the dying declarations are consistent and those are supported by spot panchanama as well as oral dying declaration.

4. I have perused the charge-sheet and considered the rival submissions. The first dying declaration of deceased Vandana was recorded at SRTR Hospital at Ambajogai by police officer at 4.25 p.m. of 25.04.2016. Her second dying declaration came to be recorded at the very same hospital by the Executive Magistrate, Ambajogai on 25.04.2016 itself from 18.40 hours to 18.55 hours. In both these dying declarations, deceased Vandana is consistent in stating that after quarreling with her husband i.e. present applicant, he poured kerosene on her person and incinerated her by means of burning match stick. Perusal of first dying declaration of deceased Vandana does not show that persons from the locality had taken her to the hospital. What is stated by her is those

persons wrapped a shawl around her person and she was taken to the hospital in the auto-rickshaw of Avinash Rathod. Even otherwise in case of plurality in dying declaration, what is required is consistency in material particulars. In the case in hand, material particulars are in respect of incineration of Vandana. On this aspect she is consistent.

5. Statement of Avinash Rathod – driver of auto-rickshaw shows that the present applicant as well as his father accompanied Vandana to the hospital. The effect of this conduct will have to be adjudicated at the trial because both dying declarations of Vandana are consistent.

6. If one requires corroboration for these consistent dying declarations, then there are oral dying declarations of deceased Vandana made to her parents as well as her relatives, which are also consistent with her initially recorded dying declaration. Spot panchanama also corroborates version of the deceased, who prima facie died homicidal death because of burn injury.

7. In this view of the matter, no case for bail is made out. The application is rejected.

8. Needless to mention that these observations are prima facie in nature having no bearing on the trial of the sessions case.

[A.M. BADAR, J.]