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

CRIMINAL APPLICATION NO.5939 OF 2016

Vijaykumar Maruti Tekale,
Age: 25 years, Occ: Pan Shop,
R/o. Wagholi, Tq. Ausa,
District - Latur ..APPLICANT

VERSUS

The State of Maharashtra ..RESPONDENT

ALONG WITH

**CRIMINAL APPLICATION NO.6216 OF 2016
IN
CRIMINAL APPLICATION NO.5939 OF 2016**

Dhanraj Shrimant Kamble,
Age: 44 years, Occ: Painter,
R/o. Turori, Tq. Omerga,
Dist. Osmanabad. ..APPLICANT

VERSUS

The State of Maharashtra
& anr ..RESPONDENTS

Mr Joydeep Chatterji, Advocate for applicant in
Criminal Application No. 5939/2016 and for
respondent No. 2 in Criminal Application No.
6216/2016;

Mr S.S. Shinde, Advocate for applicant in Criminal
Application No. 6216 of 2016

Mr S.M. Ganachari, A.P.P. for respondent/State

CORAM : A.S. CHANDURKAR, J.

DATE : 15th NOVEMBER, 2016

ORAL ORDER :

Present application has been filed under Section 439 of the Code of Criminal Procedure seeking enlargement of the applicant on bail. The applicant has been arrested on 25th April, 2016 for his alleged involvement in the incident of death of one Sunanda, his wife. The offence is registered under Sections 304-B, 498-A read with Section 34 of the Indian Penal Code.

2. The applicant and Sunanda were married on 4th June, 2014. According to the father of said Sunanda, who is also first informant, it was decided that some gold and amount of Rs.50,000/- would be paid as dowry. Though gold was given during the marriage, amount of Rs.50,000/- was not paid. According to the first informant, the applicant was illtreating his wife and was not permitting her to purchase any house hold articles. On 24th June, 2016 said Sunanda died of burns at her house, resulting into registration of aforesaid

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offence.

3. During the course of investigation, statements of first informant, his wife and neighbours came to be recorded. The charge sheet has been duly filed on 20th July, 2016.

4. It is submitted on behalf of the applicant that considering the fact that the investigation is complete and charge sheet has been duly filed, there is no reason to keep the present applicant behind the bars. It is submitted that the statements recorded do not indicate the presence of applicant at home when the incident occurred. Similarly, the allegations regarding illtreatment and demand of dowry are also insufficient. Reference is made to the statements of neighbours to urge that the applicant reached his home after his wife had burnt herself.

5. The application is opposed by learned Additional Public Prosecutor on the ground that the

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statement of mother Panchsheela clearly indicates that Sunanda had narrated the fact that she had got herself burnt at the instance of applicant. It is further submitted that the person, at the instance of whom, the marriage was solemnized, had also deposed about demand of dowry.

The first informant has moved an application for permission to assist the prosecution. The said application is allowed.

6. The learned counsel for the first informant submitted that considering the entire material on record, the involvement of the applicant stands duly established and hence there is no case made out to enlarge the applicant on bail. It is further submitted that the first informant has also taken steps to add charge under Section 302 of the Indian Penal Code against the applicant.

7. Perused the charge sheet, first information report and statements which form the part of charge sheet. At this stage, it is not

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necessary to enter into detailed analysis of the material collected by the prosecution. *Prima facie*, considering the statements of mother of deceased, Panchsheela, father Dhanraj as well as Sharad Suryawanshi, it can be seen that first informant has stated that he was informed about the incident by Sharad Suryawanshi by making a phone call. The said Sharad Suryawanshi does not refer to the presence of mother of deceased, Panchsheela, though said Panchsheela refers to the presence of said Sharad Suryawanshi.

8. Considering the fact that investigation is complete and charge sheet has been duly filed, I am inclined to enlarge the applicant on bail, subject to terms and conditions. Accordingly, the following order is passed :

: O R D E R :

(i) The applicant is directed to be released on bail in connection with Crime No. 147 of 2016 registered at Omerga Police Station, District Osmanabad, on furnishing P.R. bond of Rs.20,000/-

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with one surety in the like amount.

(ii) The applicant shall remain present before learned Additional Sessions Judge, Omerga, District Osmanabad, once in every 15 days or as per directions of learned Additional Sessions Judge, Omerga, District Osmanabad.

(iii) The applicant shall not take any steps to tamper with the prosecution witnesses or material collected by the prosecution.

It is clarified that the observations made in this order are only for the purpose of considering the prayer for grant of bail and same shall not influence by the trial Court during the trial.

9. Criminal Application stands allowed on above terms.

(A.S. CHANDURKAR, J.)