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

CRIMINAL APPLICATION NO.6357 2016

1. Navnath s/o Punja Mandlik,
Age: 35 years, Occu: Labour,
R/o. Nimon, Tq. Sangamner,
District Ahmednagar
2. Sheetal w/o Navnath Mandlik,
Age: 26 years, Occu: Household,
R/o. Nimon, Tq. Sangamner,
District Ahmednagar
3. Meena w/o Kailash Chaudhari @
Gadekar, Age: 42 years,
Occu: Household,
R/o. Siddheshwar Bakkal Wada,
Devalali, Tq. & District Nashik ..APPLICANTS

VERSUS

The State of Maharashtra,
Through Police Inspector,
Sangamner Taluka Police Station,
Sangamner, Taluka Sangamner,
District Ahmednagar ..RESPONDENT

Mr S. S. Dixit, Advocate for applicants;
Mr S. D. Ghayal, Addl. Public Prosecutor for
respondent

CORAM : A.S. CHANDURKAR, J.

DATE : 14th DECEMBER, 2016

ORAL ORDER :

The applicants, who have been arrested on

(2)

18th July, 2016 in connection with Crime No. I-112 of 2016 registered with Sangamner Taluka Police Station, Tq. Sangamner, District Ahmednagar, for the offences punishable under Sections 302 read with Section 34 of the Indian Penal Code, seek their release on bail.

2. As per the first information report dated 16th July, 2016, the informant-Kamal has stated that on 9th July, 2016, the present applicants as well as her husband had abused her and had set her on fire by pouring kerosene. She was accordingly admitted in the hospital and she finally succumbed to her burn injuries on 17th July, 2016.

3. It is submitted by the learned Counsel for the applicants that the first information report has been belatedly lodged on 16th July, 2016 though the alleged incident occurred on 9th July, 2016. It is submitted that as per dying declaration dated 10th July, 2016 it was stated by the informant that while preparing some food on stove, her clothes had

(3)

caught fire. She had further stated that her husband had tried to save her in which process he was also partly burnt. It is also submitted that subsequent report implicating all the relatives is by way of an afterthought. It is then submitted that the chargesheet is filed on 13th October, 2016 after completion of investigation hence, applicants deserve to be released on bail.

4. The application is opposed by the learned Addl. Public Prosecutor by relying upon police papers. It is submitted that the statement dated 16th July, 2016 clearly describes the role of each applicant and therefore, their involvement is apparent. The informant subsequently succumbed to the burn injuries and hence considering the gravity of the offence, the application deserves to be rejected.

5. I have perused the police papers as well as the first information report. The incident in question took place on 9th July, 2016 at about 3.00 p.m. and the informant was immediately taken to the

(4)

Primary Health Centre, Loni. As per the documents collected by the prosecution, it is stated that the informant suffered burns due to burst of stove. On the next day, dying declaration of the informant was recorded, in which she clearly stated that while preparing some food, her clothes caught fire resulting in burn injuries. She has also stated that her husband tried to extinguish the fire, in which process his hands were also burnt. Thus, the statement recorded immediately after the incident indicates burns caused by accident. The statement dated 16th July, 2016 is after almost seven days, in which present applicants have been implicated. Same indicates that relatives of the informant had come there and had taken her to Nashik which was her matrimonial home. Thus, aspect to tutoring cannot be ruled out. *Prima facie*, considering the medical papers dated 9th July, 2016 and initial dying declaration dated 10th July, 2016 the case has been made out to enlarge the applicants on bail.

(5)

6. In view of aforesaid, the following order is passed : -

(i) The applicants are directed to be released on bail in connection with Crime No. I-112 of 2016 registered with Sangamner Taluka Police Station, Tq. Sangamner, District Ahmednagar, for the offences punishable under Sections 302 read with Section 34 of the Indian Penal Code, on furnishing P.R. bond of Rs.15,000/- each, with one surety in the like amount.

(ii) The applicants shall cooperate in the completion of trial and shall not take any steps to influence the prosecution witnesses.

7. The observations made in this order are only for the purposes of deciding present application.

(6)

8. Criminal Application is allowed and disposed of.

(A.S. CHANDURKAR, J.)

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