

(1)

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

CRIMINAL APPLICATION NO.6558 OF 2015

Vitthal s/o Pandurang Dhumale & ors. ..APPLICANTS

VERSUS

The State of Maharashtra ..RESPONDENT

Mr A.A. Khande, Advocate holding for Mr S.D. Tare, Advocate for applicants;

Mr S.Y. Mahajan, Addl. Public Prosecutor for respondent

CORAM : N.W. SAMBRE, J.

DATE : 8th January, 2016

ORDER :

The applicants are seeking regular bail, in connection with C.R. No.19 of 2015, registered with Chudawa police station, Tq. Purna, Dist. Parbhani, for offences punishable under sections 302, 498-A, 323, 504 read with section 34 of the Indian Penal Code.

2. Deceased Jyoti was married to applicant no.1 Vitthal, son of applicants no.2 and 3 herein. It is claimed by her that on 24th June, 2015, there was an altercation with her mother-in-law and husband and at about 3.00 a.m. of 25th June, 2015, the applicants no.2 and 3 caught hold her and applicant no.1 poured kerosene and set her ablaze.

3. According to the learned Counsel appearing on behalf of the applicants, the applicants are falsely implicated in the crime, as according

(2)

to him, although the alleged role attributed to the applicants no.2 and 3 is that of catching hold of body of deceased Jyoti, yet there is no corresponding injury indicated in the medical report *qua* the resistance shown by her. He would then urge that applicant no.1 has extinguished the fire.

4. Learned Counsel would then urge that there are direct attributions against applicant no.1 Vitthal, who has poured kerosene on the body of Jyoti and set her ablaze. In the above background and looking to the age, particularly having regard to the proviso to section 437 of the Code of Criminal Procedure, the applicants deserve to be released on regular bail.

5. Learned Additional Public Prosecutor, while opposing the application, would urge that the neighbours have stated about the alleged incident and involvement of the applicants in the crime in question. According to him, in view of strong *prima facie* case against the applicants, the application is liable to be rejected.

6. Having bestowed my thought to the submissions made, it is noted that the role attributed to applicants no.2 and 3, in the first information report, is of catching hold of the deceased Jyoti and applicant no.1 pouring kerosene and setting her ablaze.

7. Prima facie, the story to the extent of role attributed to the applicants no.2 and 3 appears to be improbable, particularly in the light of statement

(3)

of Kailash, who has witnessed applicant no.1 extinguishing the fire. That apart, looking to the age of applicants no.2 and 3 and proviso to section 437 of the Code of Criminal Procedure, as the investigation in the matter is already complete, in my opinion, it will be appropriate to order release of applicants no.2 and 3 on bail.

8. At this stage, learned Counsel appearing on behalf of the applicants seeks leave to withdraw the application in respect of applicant no.1. Leave granted. Criminal Application stands dismissed as withdrawn in respect of applicant no.1.

9. In view of above, I pass the following order :-

Criminal Application stands dismissed as withdrawn in respect of applicant no.1.

Applicants no.2 and 3, namely, Pandurang s/o Mahadu Dhumale and Laxmibai w/o Pandurang Dhumale, be released on bail, in connection with C.R. No.19 of 2015, registered with Chudawa police station, Tq. Purna, Dist. Parbhani, for offences punishable under sections 302, 498-A, 323, 504 read with section 34 of the Indian Penal Code, on each of them furnishing P.R. Bond of Rs.15,000/- with one surety in the like amount.

Learned Counsel appearing on behalf of the applicants seeks liberty

(4)

to move application on behalf of applicant no.1 after a period of three months. However, in view of the fact that this Court was about to dismiss the application of applicant no.1 on merits, learned Counsel has withdrawn the application to his extent. As such, the liberty as prayed for stands refused.

Criminal Application stands allowed in above terms.

(N.W. SAMBRE, J.)

amj