

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

**CRIMINAL APPLICATION NO. 6761 OF 2015
IN
CRIMINAL APPEAL NO. 738 OF 2015**

Bhagwan s/o Jagannath Kedar .. Applicant..

Versus

The State of Maharashtra .. Respondent

.....
Mr N. V. Gaware, Advocate for the applicant/appellant
Mr M. M. Nerlikar, APP for respondent/State
Mr S. R. Shirsat, Advocate for complainant
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**CORAM : A.V.NIRGUDE &
V.L. ACHLIYA, JJ.
DATED : 09.06.2016.**

PER COURT :

1. The applicant, by this application seeks bail after his conviction for offence punishable u/s 302 of the Indian Penal Code. During the trial, he was in custody.

2. This is a case of alleged bride burning. It is alleged that, the applicant set his wife on fire after more than 20 years of marriage. The incident took place on 06.12.2012 at about 8.00 a.m. Admittedly, at the

time of incident, the victim and the applicant were only two occupants of the house. After the incident, it was the applicant, who took the victim to the hospital. During that day, the victim's statements were recorded in which she did not make any allegation against her husband. The case took a ugly turn on 09.12.2012, probably because the victim's father intervened. On that day, the victim's dying declaration was recorded in which she stated that, it was the applicant who set her on fire suspecting her character.

3. There is one more piece of evidence in support of the prosecution. The college going daughter of the applicant deposed that, soon after the incident her mother-victim disclosed to her that she was assaulted by the applicant.

4. Having heard the submissions advanced and further perused the evidence adduced in the matter, we are of the view that the case has been made out to entertain the application for bail filed by the applicant. There are two dying declarations which are recorded immediately after the incident in which the deceased-wife of the applicant has categorically exonerated the applicant in causing burn

injuries to her. Besides this, the conduct of the applicant to take her to Hospital and get admitted for treatment also runs in favour of the applicant. Keeping in mind that it will take much time to hear the appeal on merit, we are inclined to release the applicant on bail pending disposal of the appeal. Hence, the following order.

ORDER

- (i) The application is allowed.
- (ii) The substantive sentence imposed upon the applicant is hereby suspended.
- (iii) The applicant be enlarged on bail on his furnishing P.R. bond in the sum of Rs. 25,000/- with one or two sureties in the like amount. Bail bonds should be furnished in the lower Court.

[V.L.ACHLIYA, J.]

[A.V. NIRGUDE, J.]