

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

CRIMINAL APPLICATION NO.6992 OF 2015

1. Shivaji s/o Bhika Bhadarge,
Age 55 years, Occu. Labour

2. Sandip s/o Shivaji Bhadarge,
Age 25 years, Occu. Labour

Both r/o Chinchkheda, Taluka
Jafrabad, Dist. Jalna

.. Applicants

Versus

. The State of Maharashtra,
through the Officer in-charge of
Police Station, Kadim Jalna,
District Jalna

.. Respondent

Mr B.R. Kedar, Advocate for applicants
Mr U.S. Mote, A.P.P. for respondent

CORAM : N.W. SAMBRE, J.

DATE : 18th January 2016

PER COURT

Heard.

2. The applicants are seeking regular bail in Crime No.163/2015, registered at Kadim Jalna Police Station, District Jalna for the offences punishable under Sections 302, 307, 323, 504 and 120-B read with sec.34 of Indian Penal Code, for the alleged incident dated 5th July 2015.

3. The prosecution case against the applicants is that applicant No.1 is father-in-law of deceased Baby and applicant No.2 is the younger brother of husband of deceased Baby, who have poured kerosene on her body and set her ablaze.

4. Mr Kedar, while trying to make out the case for grant of regular bail would urge that the applicants are falsely implicated in the crime, as they were not at all present at the scene of incident. Learned Counsel for the applicants then would urge that the perusal of the story narrated in the statements recorded on 9th July 2015 and the dying declaration recorded on the next day speak substantial contradictory story. He would then invited attention of this Court to the statements of the eye witnesses, who have in clear terms stated that the applicants were not present at the scene of incident.

5. Learned A.P.P., while opposing the bail application would urge that the appreciation of contradictions or omissions would be looked into at the stage of deciding the trial. He would then submit that in the supplementary statements of eye witnesses it has categorically stated that applicants were present at the scene of incident. According to him, in view of the fact that the applicants are named in the F.I.R. and dying declaration and applicants' prayer for grant of bail be rejected.

6. With the assistance, perused the charge-sheet and statements of the eye witnesses. All the eye witnesses in clear terms have stated that they have not seen the applicants at the scene of incident. In the supplementary statements, it is stated by the witnesses that they came to know that the deceased Baby has named the present applicants as accused, who were present at the time of incident, however, none of the statements of eye witnesses takes us to the only

conclusion that the applicants were present at the scene of incident.

7. Apart from above, it is to appreciated that death of Baby because of setting her on fire initially attributed to the applicants because of quarrel between Gajanan and herself. In view thereof and in view of improbable story made against the applicants, in my opinion, further detention of the applicants is not necessary. As such, applicants are entitled for bail. Hence, I pass the following order.

8. The applicants, upon giving assurance through their Counsel to this Court that they shall not protract the trial and shall attend the trial regularly, be released on bail in Crime No.163/2015, registered at Kadim Jalna Police Station, District Jalna for the offences punishable under Sections 302, 307, 323, 504 and 120-B read with sec.34 of Indian Penal Code, upon furnishing P.R. Bond of Rs.15,000/- (Rs. Fifteen thousand) with one surety in the like amount, by each of them.

(N.W. SAMBRE, J.)

vvr