

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

BAIL APPLICATION NO.71 OF 2016

Haresh Sitaram Patil

... Applicant

Vs.

The State of Maharashtra & anr.

... Respondents

Mr.Rishi Bhuta for the Applicant

Mr.Shrikant Yadav, APP, for Respondent – State

Mr.Aswalkar, PSI, Dadar Police station – present

CORAM: **MRS.MRIDULA BHATKAR, J.**

DATE: **MARCH 7, 2016**

P.C.:

1. This is an application for bail as the applicant-accused is facing charges under sections 302, 427, 323, 504, 506 r/w 34 of the Indian Penal Code in C.R. No.287 of 2015 registered with the Dadar police station, Mumbai on 1.9.2015 at the instance of one Ms.Simran Rashid Sayed. It is the case of the prosecution that the complainant has been residing with her mother Shehnaz Rashid Sayed i.e., the deceased and father and in the neighbouring house, the step mother of Rashid viz., Zubeda @ Papati Ali Sayed I.e., accused No.1 was residing alongwith her daughters. The applicant-accused is a son-in-law of the accused No.1 and husband of accused No.2 Zameela. On 31.8.2015, in the evening, there was a quarrel between Zubeda, Zameela and Simran and Smita Jadhav. At that time, the applicant-accused and other family members assaulted the

witness Smita Jadhav, Zameela. Accused Nos.1 and 2 assaulted the complainant. Thereafter, when Shehnaz, the mother of Simran, arrived, accused No.1 ran after her and after some time, they heard screams of Shehnaz. The complainant and the eye witnesses found that Shehnaz was set on fire. When she was taken to Nair hospital, she was treated. However, she succumbed to her burn injuries and thereafter, the offence was registered at C.R. No.287 of 2015. The applicant-accused was arrested on 1.9.2015. Hence, this bail application.

2. The learned Counsel for the Applicant has submitted that the applicant was present at the time of the incident but no role is attributed to him in the commission of the offence of murder or assault of Shehnaz.

3. The learned Prosecutor has opposed the bail application and relied on the statement of Smita Jadhav as also the oral dying declaration of Shehnaz wherein she has stated that the applicant-accused was present and set her on fire. It is submitted that chargesheet is filed.

4. Perused the FIR and the statements of witnesses so also the dying declaration of Shehnaz. It is a recorded statement on cell phone by her daughter, Simran, which is reproduced by the Investigating Officer. In the statement of Smita Jadhav, who was an eye witness, she does not attribute any specific role to the applicant-accused Harish Patil in the offence against Shehnaz. As there is no such offence pointed out or

produced before this Court against the applicant, disclosing that he is the one who participated in either following Shehnaz or holding her or setting her on fire, I am inclined to grant bail on the following terms and conditions:

- i) The applicant-accused shall be released on bail upon furnishing P.R. Bond in the sum of Rs.30,000/- (Rupees Thirty thousand only) with one or two solvent sureties in the like amount.
- ii) The applicant-accused shall not tamper with the evidence or pressurise the prosecutrix, the complainant or her family members;
- iii) The applicant-accused shall not indulge into any criminal activity and shall attend on all the Court dates;
- iv) The applicant-accused shall not abscond or leave India without prior permission of the Court and furnish his permanent address with documentary proof to the Investigating Officer.
- v) In the event of breach of any of the above conditions, the prosecution will be at liberty to move the Court for cancellation of bail.

5. Bail application is disposed of on the above terms.

(MRIDULA BHATKAR, J.)