

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION**

BAIL APPLICATION NO.92 OF 2016

Sunita Sudam Kamble

...Applicant

Versus

The State of Maharashtra

...Respondent

.....

Mr. Shailesh D. Chavan for the Applicant.

Ms R.M. Gadhvi, APP for the Respondent -State.

Mr. Sunil G. Gade, Asst. Police Inspector, Sangvi Police
Station, Pune city, present.

CORAM : SMT. ANUJA PRABHUDESSAI, J.

DATE : 18th JANUARY, 2016.

P. C. :

This is an application for bail filed by the aforesaid Applicant, who is facing trial in Sessions Case No.112 of 2015 pending on the file of the learned Additional Sessions Judge, Pune. The said case arises from the C.R. No.400 of 2014 registered at Sangvi Police Station, Pune, for the offences punishable under sections 307 r/w. 34 of the IPC.

2. The case of the prosecution in brief is that the Applicant alongwith the other co-accused had committed murder of deceased Archana Bhor by setting her on fire.

3. Mr. Shailesh D. Chavan, the learned counsel for the Applicant has submitted that there is no prima facie material to link the Applicant with the crime. He has submitted that the deceased had given statement on 22.10.2014 wherein she had stated that she set herself on fire. He has further submitted that the subsequent statement is inconsistent with the statement dated 22.10.2014, which was first at the point of time.

4. Ms Gadhvi, the learned APP has submitted that statement of the deceased recorded on 26.10.2014 clearly indicates that the Applicant herein was involved in setting the victim on fire. She has further stated that the deceased had also informed her daughter and sisters that the Applicant had set her on fire. She has further submitted that there is prima facie material to show that the Applicant was involved in committing murder of Archana Bhor.

5. I have perused the records and considered the submissions advanced by the learned counsel for the Applicant and the learned APP for the Respondent -State. The records prima facie reveal that the deceased-Archana Bhor was admitted in Sasoon General Hospital, Pune, on 22.10.2014. Her statement was recorded on the same date wherein she had stated that her husband used to consume alcohol and

used to assault her. Her statement further reveals that her husband had extra marital relations with the present Applicant. She has further stated that at the relevant date at 8.30 a.m. her husband had abused her and had prevented her from going to work. She had stated that though she had tried to convince her husband he was not allowing her to go work. It was necessary for her to go to work and her husband was not ready to listen her and that his behaviour annoyed her and she poured kerosene on her body and set herself on fire. She had stated that her daughter, brother and other neighbours extinguished the flames.

6. It is to be noted that the FIR was not recorded on the basis of this statement, which was recorded first in point of time, but the crime was registered on the basis of the subsequent statement dated 26.10.2014 wherein the victim had alleged that her husband Ashok Bhor, mother-in-law- Rukmini Bhor and the Applicant herein had entered into the house and her husband had poured kerosene on her body and the Applicant herein had set her ablaze. The statement dated 26.10.2014 is prima facie inconsistent with the statement dated 22.10.2014.

7. The statement of the daughter of the victim, Shivani Bhor

prima facie reveals that on the relevant date at about 8.00 a.m. her father Ashok, her grandmother and the Applicant herein were present in the house and that they were fighting with her mother. She had stated that she had gone to collect the books. When she returned home she heard her mother was shouting for help and when she entered the house she saw that her mother was in flames and her father and grandmother and some neighbours were standing near her.

8. The statement of the witness does not prima facie indicate that the Applicant was present in the house when the victim was in flames. It is to be noted that the daughter as well as sister of the victim have stated that the deceased had told her that the Applicant herein had set her on fire. The statements of these witnesses were recorded on 27.10.2014 and prima facie the said statements are inconsistent with the statement made by the victim on 22.10.2014.

9. The statement of the victim indicates that her brother-in-law Subhash Bhor and the neighbours had extinguished the flames. It is however, to be noted that the Investigating Officer has not recorded the statements of said Subhash and other neighbours. Consequently, there are no prima facie material that the Applicant was present or that she was involved in committing the said crime.

10. Considering the above facts and circumstances, the application is allowed on the following terms and conditions:

(i) The Applicant shall be released on bail on furnishing bail bond of Rs.40,000/- (Rupees Forty Thousand only) with one surety to the like amount to the satisfaction of Sessions Judge, Pune.

(ii) The Applicant shall not interfere with the witness or tamper with the evidence in any manner.

(iii) The Applicant shall not leave Pune-District without prior permission of the Additional Sessions Judge, Pune.

(iv) The Applicant shall attend each and every date of hearing before the Sessions Court, Pune.

(ANUJA PRABHUDESSAI, J.)