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**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
CRIMINAL BAIL APPLICATION NO. 262 OF 2016**

Dnyaneshwar Dattatreya Dherenge

...Applicant

Versus

The State of Maharashtra

...Respondent

Mr.R.G.Shatalwar, i/b Mr.P.P.More,for the Applicant

Ms.R.M.Gadhavi, A.P.P for the Respondent-State

CORAM : REVATI MOHITE DERE, J.

DATE : 13th APRIL, 2016

P.C. :

1. Heard learned Counsel for the applicant and the learned A.P.P.
2. By this application, the applicant seeks his enlargement on bail in connection with C.R. No.273 of 2013, registered with the Manchar Police Station, Pune, for the alleged offences punishable under Sections 302, 498A, 504 r/w 34 of the Indian Penal Code.
3. Learned Counsel for the applicant submits that there are 3 dying declarations made by deceased – Varsha Dherenge, wife of the

applicant. He submitted that in the 1st dying declaration dated 18th November, 2013, which was recorded on the same day of the incident at about 12.05 hours, the deceased has exonerated the applicant. She has stated that when the applicant and other two co-accused i.e. her father-in-law and brother-in-law were in the field and her children were in the school, due to burst of stove, she sustained burn injuries. In the 2nd dying declaration dated 18th November, 2013 which was recorded by the Police Havildar, Haveli Police Station she has given history of accidental burn injuries by a stove and has stated that the applicant and the other two co-accused were in the field at the time of the incident. He submitted that in the 3rd dying declaration dated 19th November, 2013, which was also recorded by the Police Naik, for the first time, the deceased has disclosed that the present applicant and the other two co-accused set her ablaze. He submitted that considering the inconsistent and contrary dying declarations, the applicant be enlarged on bail. He submitted that the similarly placed co-accused have been enlarged on bail.

4. Learned APP submitted that the 3rd dying declaration dated 19th November, 2013 is consistent with the oral dying declaration made to the

uncle of the deceased. She relied on the statement of Dashrath Ghule, in support of her submission. The said statement was recorded on 23rd November, 2013. In the said oral dying declaration, the deceased had allegedly disclosed that there was an altercation between the deceased and the accused and that the present applicant along with other two co-accused poured kerosene on her person and set her ablaze.

5. Perused the papers. Investigation is complete and charge-sheet is filed. It appears that there are 3 dying declarations, 2 dated 18th November, 2013 which exonerates the applicant and the 3rd dying declaration dated 19th November, 2013 which implicates the applicant along with two other co-accused. Both the other two co-accused i.e. father-in-law and brother-in-law of the deceased have been enlarged on bail. Role of the present applicant is similar to that of the co-accused who have been enlarged on bail.

6. Considering the aforesaid facts, the applicant is enlarged on bail on the following terms and conditions :

ORDER

- (i) The Applicant be enlarged on bail on furnishing P.R. Bond in the sum of Rs.10,000/- with one or two sureties in the like amount;
- (ii) The applicant shall attend the concerned Police Station on the first Saturday of every month between 10:00 a.m. to 11:00 a.m., till the conclusion of the trial;
- (iii) The applicant shall not tamper or attempt to influence or contact the witnesses or any person concerned with the case;
- (iv) The applicant shall inform his latest place of residence and mobile contact number immediately after being released and/or change of residence or mobile details, if any, from time to time to the Court seized of the matter and to the Investigating Officer of the concerned Police Station;
- (v) The Applicant shall co-operate in the conduct of the trial and shall attend the concerned Court on every date of the hearing ;

(vi) An undertaking to the aforesaid clauses ii) to v), shall be filed by the Applicant, in the Trial Court, within one week of his release;

(vii) If there is a breach of any of the aforesaid conditions, the prosecution shall be at liberty to seek cancellation of the applicant's bail.

7. The Application is allowed in the aforesaid terms and is accordingly disposed of.

8. It is made clear that the observations made herein are *prima facie*, and the trial Court shall decide the case on its own merits, in accordance with law, uninfluenced by the observations made in this order.

9. All concerned to act on the authenticated copy of this order.

REVATI MOHITE DERE, J.