

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

CRIMINAL BAIL APPLICATION NO. 1121 OF 2016

Sudarshan Narayan Mengade. ... Applicant.
Versus
The State of Maharashtra. ... Respondent.

Mr. Biju Antony Aloor, advocate for Applicant.

Mr. R.M. Pethe, APP for State.

**CORAM : SMT. SADHANA S. JADHAV,J
DATE : OCTOBER 13, 2016**

P.C.:

1 Heard the learned Counsel for the applicant and the learned APP for State. Perused the papers.

2 This is an application under Section 439 of the Code of Criminal Procedure, 1973. The applicant herein is arrested on 8/9/2015 in Crime No. 225 of 2015 registered at Wanwadi Police Station initially for offence punishable under Section 307, 498A of the Indian Penal Code. The investigation is completed and the applicant has been

charge-sheeted for an offence punishable under section 302 of the Indian Penal Code.

3 It is the case of the prosecution that the applicant herein was married to Shital on 8/2/2015. It was second marriage of Shital and the applicant. The first wife of the applicant is alive. The applicant is not divorced. It appears that there were quarrels between Shital and the applicant quite often, mostly on the ground that the applicant was demanding motor cycle from parents of Sheetal. Being fed up of the harassment, she had sold her ornaments and had facilitated the purchase of motor cycle. That on 19/2/2015 he had purchased the motor cycle. Shital was carrying pregnancy. She was insisting upon the applicant that she desires to go to her maternal house and he had denied the said liberty.

4 On 1/9/2015 Sheetal was examined at Gurukrupa Diagnostic Centre and the opinion was that Shital was pregnant of 21 weeks and

5 days single live intrauterine pregnancy with multicystic dysplastic right kidney and upper cleft lip.

5 Shital was admitted in hospital on 5/9/2015 with burn injuries. She disclosed to the police in the presence of the doctor that on 5/9/2015 at mid-night, she had insisted upon her husband to permit her to visit her maternal house. He was annoyed with the said request and thereafter, had poured kerosene on her. That when she was in the process of changing her clothes, he had lit up match stick and threw on her person, due to which she sustained burn injuries. She raised hue and cry. The neighbours had rushed to rescue her. The applicant was annoyed with his wife that she had called upon neighbours and had humiliated him. He had insisted upon her to disclose to the neighbours and others that she had sustained accidental burns. He had also candidly informed her that he would take her to hospital only in the eventuality that she discloses that she had sustained accidental burns. He had thereafter, admitted her to

hospital. She had sustained 58% deep burns. She succumbed to the burn injuries on 9/9/2015.

6 The learned Counsel for the applicant submits that the statement of the victim is tutored version. It is also submitted that Shital had tendency to commit suicide and that was one of the reason cited for seeking divorce from her first husband. However, there is nothing on record to substantiate the said contention. The case rests on dying declaration. The compilation of the charge-sheet also indicates that there is more than sufficient incriminating material to corroborate the version of the victim, as stated in the first information report. The applicant is charge-sheeted under Section 302 of the Indian Penal Code and in these circumstances, the applicant does not deserve to be enlarged on bail. Hence, the application being sans merits stands rejected.

7 However, it is made clear that the observations made herein above are prima facie in nature and are restricted to the application

under section 439 of the Code of Criminal Procedure, 1973. The learned Sessions Judge shall not be influenced by the same at the time of trial.

8 The application is disposed of accordingly.

(SMT. SADHANA S. JADHAV,J)