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IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
CRIMINAL BAIL APPLICATION NO.1207 OF 2016

Balasaheb Dattatraya @ Dattu Kurkute ..Applicant.

V/s.

State of Maharashtra ..Respondent.

Mr.Aniket U. Nikam for the applicant.

Mr.S.S.Pednekar, APP for respondent-State.

CORAM : A.M.BADAR, J.

DATED : 23RD JUNE, 2016

P.C. :-

1. The applicant / accused in Crime No.203/2016 for offences punishable under section 302, 354 and 506 of the Indian Penal Code and under sections 3(2) (iv) and 3(1)(ii) of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989 registered at Chakan Police Station, Pune by this application is praying for releasing him on bail.

2. Heard the learned counsel for the applicant. According to the learned counsel, the charge-sheet goes to show that the applicant was very much present with the

deceased Supriya and he tried to extinguish the fire by pouring water on the person of Supriya. According to the learned counsel, record of investigation consistently show that Supriya suffered accidental burns.

3. As against this, the learned APP submits that statement of the informant as well as his wife goes to show that deceased had made oral dying declarations to them disclosing the circumstances leading to her death and implicated the present applicant as the person who set her ablaze. The learned APP further pointed out the statement of Appaji Kurkute – relative of the applicant and argued that his statement shows the guilty mind of the applicant.

4. Background facts are thus :-

Supriya Vajale at the relevant time was residing in a rented room of Dnyaneshwar Tope situated at Vaki Budruk of Chakan area, Pune. On 5th February, 2016 she suffered burn injuries at her residential room owned by Dnyaneshwar Tope. On 13th February, 2016 Supriya succumbed to the burn injuries at Sassoon Hospital, Pune. On 9th March, 2016 her father Sudhir Vajale lodged report at Chakan Police Station with an

averment that on 12th February, 2016, his daughter Supriya made an oral dying declaration to the effect that on 5th February, 2016, the present applicant Balasaheb Kurkute tried to outrage her modesty in her room and as she resisted, he incinerated her by pouring kerosene on her person and setting her ablaze.

5. Investigation Officer has also recorded statement of Sunita Vajale - mother of deceased Supriya which is consistent with the version of her husband. Sunita also stated to the police that on 12th February, 2016 Supriya made a oral dying declaration to her to the effect that Balasaheb Kurkute attempted to outrage her modesty and on her resistance, he poured kerosene on her person and set her ablaze.

6. The case of the prosecution, as seen from the charge-sheet, is entirely based on oral dying declarations of Supriya made to her parents on 12th February, 2016 while taking treatment at Sassoon Hospital, Pune. We are also having on record officially recorded dying declaration of Supriya recorded on the very same day of her sustaining burns by her. It is settled law that in case of multiple dying

declarations in order to act upon it, they should be consistent in material particular. Similarly, in case of multiple dying declarations, the first in point of time is generally preferred.

7. In the case in hand, as seen from the charge-sheet, on sustaining burns, Supriya was admitted to Sassoon Hospital, Pune at about 2.04 p.m. on 5th February, 2016. At that time, she has given history of sustaining burns by her as accidental burns due to kerosene stove at about 2.00 p.m. at home.

8. As it was a medico-legal case, dying declaration of Supriya was recorded on the very same day by police personnel attached to police outpost at Sassoon Hospital at Pune. In this official dying declaration on the day of incident, at about 4.30 p.m. in presence of the Medical Officer, deceased Supriya stated that she met Balasaheb Kurkute on 5th February, 2016. She took him to her room and was preparing tea. She further stated that when she was preparing tea, kerosene which was spilled near the stove caught fire and she sustained burn injuries. Prima facie, it is seen that in her first dying declaration, deceased Supriya is stating of

sustaining accidental burns.

9. The F.I.R. shows that incident in question was reported to the informant father by the landlord of Supriya namely Dnyaneshwar Tope. Statement of Dnyaneshwar Tope as well as his wife Janakabai Tope shows the applicant of taking her to the hospital after sustaining burn injuries by Supriya. Statement of neighbourer Pralhad Singh shows that the applicant had tried to extinguish the fire on Supriya by pouring water on her person. In the wake of this evidence against the present applicant, on completion of investigation and on filing of charge-sheet, his pre-trial detention is not warranted. Hence the order :-

- (i) The applicant / accused in Crime No.203/2016 for offences punishable under section 302, 354 and 506 of the Indian Penal Code and under sections 3(2)(iv) and 3(1)(ii) of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989 registered at Chakan Police Station, Pune be released on bail on his executing P.R. bond in the sum of Rs.20,000/- with one more surety in the like amount;

- (ii) The applicant / accused shall not directly or indirectly make any inducement, threat or promise to any person acquainted with the facts of accusation against him so as to dissuade him from disclosing such facts either to the Court or to any police officer and that he shall not tamper with the evidence;
- (iii) The applicant / accused shall co-operate for expeditious disposal of the trial;
- (iv) The applicant / accused shall not commit an offence similar to the offence of which he is accused or suspected of commission;
- (v) The application is disposed of accordingly.

(A.M.BADAR, J.)