

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

CRIMINAL BAIL APPLICATION NO. 1789 OF 2016

Sunil Popat Barde.	... Applicant.
Versus	
The State of Maharashtra.	... Respondent.

Mr. Kuldeep Patil i/b. Mr. Prashant S. Hagare, advocate for Applicant.

Ms. Veera Shinde, APP for State.

**CORAM : SMT. SADHANA S. JADHAV,J
DATE : SEPTEMBER 22, 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 30/6/2016 in Crime No. 185/2015 registered at Daund Police Station initially for offence punishable under Section 307, 323, 504, 506 of the Indian Penal Code. Investigation is completed and charge-sheet is filed for

the offence punishable under section 302, 307, 323, 504, 506 of the Indian Penal Code.

3 It is the case of the prosecution that on 23/6/2015 wife of the present applicant was admitted in rural hospital with history of accidental burns. Her statement was recorded in the presence of the medical officer, subdistrict hospital, Daund wherein she has disclosed that when she was cooking the food on hearth, she had poured some petrol for igniting logs of wood. Some of the petrol had fallen on her person. Her clothes had caught flames and she has sustained accidental burns. On 24/6/2015 the statement of the injured was recorded by executive Magistrate before Dr. Sanjiv Karande of Mahalaxmi hospital. She had specifically stated that she had sustained accidental burns.

4 On 28/6/2016 for the first time victim Mira had disclosed to the police that on 23/6/2016 she was cooking food and at that time her husband i.e. present applicant had returned home under the influence

of alcohol. She was unaware when he had poured petrol on her person. Some drops of petrol had dropped on hearth and due to fire, she had sustained burn injuries. She rushed to the house of her neighbour Raju Mane and poured water on herself to extinguish flames. The neighbours had seen this incident and had assaulted the applicant with fists and kick blows. He was under the influence of alcohol and had not realised the consequences. He was abusing the neighbours. He was suspecting her character and had poured petrol on her person and set her ablaze. The injured has succumbed to the burn injuries on 3/7/2015 at Sassoon hospital.

5 The learned Counsel for the applicant submits that two dying declarations exonerated present applicant, as the injured had voluntarily disclosed that she had sustained accidental burns. It is only after 5 days of the alleged incident that she has implicated the present applicant. According to the learned Counsel for the applicant, the possibility of the tutored statement at the behest of her relatives cannot be ruled out.

6 The learned APP submits that the statement of the neighbours would clearly show that the applicant is responsible for the death of his wife.

7 As on today, the investigation is completed. Charge-sheet is filed. The case would rest upon the dying declarations which are prima facie inconsistent. Hence, the applicant deserves to be enlarged on bail. Moreover, this Court cannot be oblivious of the fact that the couple has grown up children. They were married 15 years ago. Hence, the applicant deserves to be enlarged on bail.

8 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.

9 Hence, following order is passed :

ORDER

- (i) The application is allowed.

- (ii) The applicant be enlarged on bail on furnishing PR. Bond in the sum of Rs. 25,000/- and one or two sureties in the like amount.

- (iii) The applicant shall report to the Daund Police Station on every Sunday between 10 a.m. to 12 noon till framing of charge.

- (iv) The applicant shall not tamper with the evidence.

- 10 The application is disposed of accordingly.

(SMT. SADHANA S. JADHAV,J)