

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

CRIMINAL BAIL APPLICATION NO. 1790 OF 2016

Sachin Raju Khandale & ors. ... Applicants.
Versus
The State of Maharashtra. ... Respondent.

Mr. Rahul S. Kate, advocate for Applicants.

Mr. Vinod Chate, 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. This is a subsequent application filed by the applicants seeking enlargement on bail. The previous application was rejected on 4/8/2016 by the Hon'ble Predecessor Bench (Coram : A.M. Badar,J). Perused the order. The Hon'ble Court has observed thus :

“7 Perusal of the papers of medical treatment of Bhagyashri shows that she suffered extensive burns. She suffered 51% to 52% burns of grade II and grade III. She was discharged against medical advised. In the certificate dated 01.06.2016 the Noble

Hospital had certified that Bhagyashri had suffered 55% burns and infection control measures are necessary.

8 Nature of crime and the circumstances in which the same is committed are relevant considerations for grant of bail. In the case in hand for trifle reasons applicants/accused have indulged in rioting and setting Bhagyashri ablaze. Prima facie, it is seen that all applicants are vicariously liable for the result. Co-accused-Sonali was granted bail merely because she has delivered a child and the child was one year old.

2 The Hon'ble Bench has observed that the victim had suffered 52% burns of grade II and grade III. The learned Judge has taken into consideration the circumstances in which the offence was committed and hence, had rejected the bail application. As on today, there is no change in circumstances.

3 The learned Counsel has placed reliance upon the Judgment of the Hon'ble Apex Court in the case of **Bhausahab Dhavare v/s. State of Maharashtra reported in 2001 (3) Crimes (SC) 410**, where the Hon'ble Apex Court has initially observed that the Hon'ble High Court

was justified in rejecting the bail application. However, the Hon'ble Apex Court has taken into consideration the fact that the victim had survived and there was no prospect of the offence being escalated to higher counts and hence, had granted bail to the applicant therein.

4 In the present case, the Hon'ble Predecessor has rejected the application on justifiable grounds. Hence, the present application deserves to be rejected. Change of assignment cannot be taken as a change in circumstance for grant of bail. Hence, the application is rejected. However, the learned Sessions Judge seized with the matter shall make an endeavour to expedite the trial as far as possible. The application is disposed of accordingly.

(SMT. SADHANA S. JADHAV,J)