

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE SIDE JURISDICTION
CRIMINAL BAIL APPLICATION NO. 1916 OF 2016

Ranjana Ramchandra Phule

.....Applicant

V/s.

The State of Maharashtra

....Respondent

Mr. Priyal Sarda Advocate for Applicant.

Mr. Vinod Chate APP for the State.

Mr. S. R. Adhatrao, P.S.I. Barshi

City Police Station, Solapur.

CORAM : SMT. SADHANA S. JADHAV, J.

DATED : SEPTEMBER 21, 2016.

PC :

1) Heard. This is an application under section 439 of Code of Criminal Procedure, 1973. Applicant herein is arrested on 05/08/2016 in crime no. 322 of 2016 registered at Barshi Police Station for offence punishable under sections 498 (A), 306 r/w 34 of the Indian Penal Code.

2) Heard the learned counsel for the applicant and the learned APP.

3) The son of the present applicant namely Nagesh Phule was married to Samrudhi on 11/06/2015. On 05/08/2016, Rukmini Lokhande i.e. mother of Samrudhi lodged a report at the police station alleging therein that her

daughter Samrudhi was being harassed by her husband Nagesh and the present applicant. It is also alleged that applicant used to humiliate Samrudhi over trifling domestic chores. It is also alleged that there was a demand of Rs. 50,000/- and that Samrudhi was being harassed on the said ground. Samrudhi had returned to her maternal house and had informed her parents that she would not return to her matrimonial house without taking Rs. 50,000/-. That she was being harassed on account of demand of money for buying a motorcycle for Nagesh. On 30/07/2016, at about 4.00 p.m., Nilesh Phule who happens to be the son of the present applicant and brother-in-law of Samrudhi informed her parents that Samrudhi had set herself ablaze in the bathroom and she has been admitted in Bakre hospital. She was then shifted to Osmanabad. According to the first informant, Samrudhi had disclosed to her mother that she was being harassed by present applicant and her husband Nagesh to such an extent that she did not wish to live anymore and therefore, she had set herself ablaze. That on the way to the hospital, she was threatened by her husband that in the eventuality that she complained against them, they would not incur the expenditure for her treatment and therefore, she had disclosed to the police that she had sustained accidental burn injuries. Samrudhi had

succumbed to the burn injuries on 05/08/2016.

4) Papers of investigation would reveal that statement of Samrudhi was recorded on 30/07/2016 in which she had stated that she had sustained accidental burns at the time of cooking on the stove. The Statement of Samrudhi was recorded in the presence of her neighbour Rupali Rajendra Dhage. It is pertinent to note that although Samrudhi had survived till 05/08/2016, her statement was not recorded by any Executive Magistrate.

5) The learned counsel for the applicant rightly submits that although Samrudhi had disclosed to her mother on 30/07/2016 itself that she was threatened by her husband and therefore, she had given history of accidental burns. Neither her parents nor relatives had complained about it to the police. F.I.R. is lodged only after Samrudhi had succumbed to the burn injuries. It is clear that Samrudhi was taken to the hospital by her husband Nagesh Phule and the present applicant had not accompanied them to the hospital and therefore, *prima facie* it cannot be said that applicant had also threatened Samrudhi. While in police custody, statement of the applicant has been recorded and she has disclosed to the police that she was residing with her son Nilesh at Uplai road. She used to work as domestic maid and in the afternoon

she used to have lunch with her son Nagesh and Samrudhi at Raut Vasti Dhage Mala.

6) In any case, applicant has been in custody for more than one month. *Prima facie* the case rests on dying declaration. Applicant happens to be a woman and deserves to be enlarged on bail by virtue of proviso to section 437 of the Code of Criminal Procedure, 1973. However, the co-accused Nagesh shall not claim parity with the present applicant. However, it is made clear that observations made herein above are *prima facie* in nature and shall not be considered for quashing of F.I.R., discharge application or at the time of trial.

ORDER

- (i) Application is allowed.
- (ii) Applicant be enlarged on bail on furnishing P.R. bond in the sum of Rs. 15,000/- with one or two sureties in the like amount.
- (iii) Applicant shall report to the concerned police station as and when called.
- (iv) Application stands disposed of.

(SMT. SADHANA S. JADHAV, J.)