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**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
CRIMINAL BAIL APPLICATION NO. 2050 OF 2015**

Nanaji Sahadu Kakulte

...Applicant

Versus

The State of Maharashtra

...Respondent

Mr.M.A.Patil, for the Applicant

Ms. Veera Shinde, A.P.P for the Respondent-State

CORAM : REVATI MOHITE DERE, J.

DATE : 16th APRIL, 2016

P.C. :

1. Heard learned Counsel for the applicant and the learned A.P.P.
2. By this application, the applicant seeks his enlargement on bail in connection with C.R. No. 55 of 2015, registered with the Ambad Police Station, Nashik for the alleged offences punishable under Sections 302, 307, 498A of the Indian Penal Code.
3. Learned Counsel for the applicant submitted that the incident in question took place on 15th February, 2015 at about 10.30 p.m. He

submitted that there are 2 dying declarations made by the deceased; one of 16th February, 2015 recorded by the Special Executive Magistrate at 2.45 a.m. which exonerates the applicant and the 2nd dying declaration dated 18th February, 2015, again recorded by the Special Executive Magistrate, which implicates the applicant. He submitted that in the 2nd dying declaration dated 18th February, 2015 the deceased has stated that the applicant would harass and ill-treat her and that he had set her on fire; and that as he had pressurized her, she had not disclosed the said fact to any person. He relied on the statement of one Vijay B. Ahire, a rickshaw driver, which is on page 46 of the application. According to Vijay Ahire, when the applicant was taking the deceased to the hospital, he had overheard the conversation between the two. The said witness has stated that the applicant asked the deceased as to why she had done this act, pursuant to which, she allegedly replied that he would have alcohol and come back home and would trouble her, pursuant to which, the applicant replied that she had taken a wrong step. He further relied on the statement of Laxmi Wankhade, the neighbour of the applicant, who has stated that she had never heard any quarrel from the applicant's house.

4. Learned APP opposed the bail application. She submitted that the 2nd dying declaration clearly shows that she had made the 1st dying declaration under the pressure of the applicant.

5. Perused the papers. It appears that there are 2 dying declarations, both of which are contrary to one another. The statement of Vijay Ahire, the rickshaw driver who took the deceased and the applicant to the hospital shows that the possibility of the deceased having committed suicide also cannot be ruled out. From the statements of the witnesses, it is clear that the applicant was at home and that he had doused the fire. The applicant has also sustained burn injuries on his hands. Investigation is complete and charge-sheet is filed.

6. In the facts of this case, the applicant is enlarged on bail on the following terms and conditions:-

ORDER

- (i) The Applicant be enlarged on bail on furnishing P.R. Bond in the sum of Rs.20,000/- with one or two sureties in the like amount;

(ii) The applicant shall not tamper or attempt to influence or contact the complainant, witnesses or any person concerned with the case;

(iii) The applicant shall inform his latest place of residence and mobile contact number immediately after being released and/or change of residence or mobile details, if any, from time to time to the Court seized of the matter and to the Investigating Officer of the concerned Police Station;

(iv) The applicant to cooperate with the conduct of the trial;

(v) If there is a breach of any of the aforesaid conditions, the prosecution shall be at liberty to seek cancellation of the applicant's bail.

7. The Application is allowed in the aforesaid terms and is accordingly disposed of.

8. It is made clear that the observations made herein are *prima facie*, and the trial Court shall decide the case on its own merits, in accordance with law, uninfluenced by the observations made in this order.
9. All concerned to act on the authenticated copy of this order.

REVATI MOHITE DERE, J.