

Anand

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

BAIL APPLICATION NO.2086 OF 2015

Bapu Manik Maske .Applicant

Vs.

The State of Maharashtra .Respondent

Mr.S.S.Salunkhe, Advocate, for the Applicant
Smt.Veera Shinde, APP, for the Respondent – State

CORAM : REVATI MOHITE DERE, J.

DATE : 07.03.2016

P.C.

. Heard learned counsel for the Applicant
and the learned APP for the Respondent – State.

2. By this Application, the Applicant seeks
his enlargement on bail in connection with
C.R.No.104 of 2015 registered with the Taluka
Police Station, Pandharpur, District – Solapur, for
the alleged offences punishable under Sections 302,
307, 323, 504, 506 r/w.34 of the Indian Penal Code.

3. The alleged incident is stated to have taken place on 21.04.2015 at about 11.30 p.m.. The Applicant is the husband of the deceased. There are three dying declarations allegedly made by the deceased which are on page Nos.16, 20 & 22 of the application. The first dying declaration was allegedly made to the Tahsildar, Pandharpur, District – Solapur on 22.04.2015; the 2nd dying declaration made to the Nayab Tahsildar, Solapur and the 3rd dying declaration is the statement made to the police, which is treated as an FIR.

4. Learned counsel for the Applicant states that there is some discrepancy in all the three dying declarations, with regard to the exact role played by the applicant. He submitted that the co-accused i.e. applicant's mother and first wife have been enlarged on bail. He also submits that it is the applicant who had taken the deceased to the hospital soon after the incident.

5. Learned APP opposes the bail application. She submits that the name of the applicant is spelt out in all the three dying declarations made by the deceased.

6. Perused the papers. The 1st dying declaration is made to the Tahsildar, Taluka – Pandharpur, District – Solapur on 22.04.2015 at around 12.30 p.m.. There are three endorsements. Out of which, two state that the patient is not in a condition to give the statement and the third endorsement which states that the patient is in a condition to give the statement. In the said dying declaration, she has stated that the applicant poured Kerosene on her person and set her on fire and that the co-accused, mother-in-law, applicant's first wife and sister also set her ablaze. The 2nd dying declaration which is recorded by the Nayab Tahsildar on 22.04.2015 at 5.39 p.m. shows that there was some dispute on the previous day i.e. on

21.04.2015 on account of giving food in which she was assaulted by her mother-in-law, applicant's first wife and by the Applicant and on 22.04.2015 at 7.00 a.m. in the morning the said persons poured Kerosene on her person and set her ablaze. In the 3rd dying declaration which is treated as an FIR, she has stated that her mother-in-law poured Kerosene on her person and the Applicant ignited the match stick and set her ablaze. In all the dying declarations, she has stated that it is Applicant who took her initially to the Pandharpur Hospital and thereafter to the Solapur Hospital. It appears that the co-accused who have played a similar role have been enlarged on bail.

7. Considering the role of the Applicant and the fact that similarly placed accused have been enlarged on bail, the Applicant is also entitled to be enlarged on bail on the following terms & conditions:

ORDER

- (i) The applicant be enlarged on bail, on executing PR Bond in the sum of Rs. 15,000/- with one or two sureties in the like amount;
- (ii) The applicant shall attend the Pandharpur Police Station on the first Saturday of every month between 10:00 a.m. to 11:00 a.m. till the conclusion of the trial;
- (iii) The applicant shall not tamper or attempt to influence or contact the complainant, witnesses or any person concerned with the case;
- (iv) 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;
- (v) The applicant to cooperate with the conduct of the trial;

(vi) 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.

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

9. 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.

Parties to act on the authenticated copy of this order.

(REVATI MOHITE DERE, J.)