

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE SIDE JURISDICTION
CRIMINAL BAIL APPLICATION NO. 2154 OF 2016

Santosh Basavraj Gaikwad

.....Applicant

V/s.

The State of Maharashtra

....Respondent

Mr. Ujwal R. Agandsurve Advocate for Applicant.

Ms. Veera Shinde APP for the State.

CORAM : SMT. SADHANA S. JADHAV, J.

DATED : 18th NOVEMBER, 2016.

PC :

1) Heard. This is an application under section 439 of Code of Criminal Procedure, 1973. Applicant herein is arrested on 23/05/2016 in crime no. 88 of 2016 registered at Salgarvasti Police Station, Solapur. Initially offence was registered under section 307 of the Indian Penal Code. After completion of investigation, applicant has been charge-sheeted for offence punishable under section 302 of the Indian Penal Code.

2) It is the case of the prosecution that on 06/05/2016, Mallamma, wife of the present applicant was admitted in Civil Hospital, Solapur with history of burn injuries. It was a medico-legal case and therefore, the statement of the

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injured was recorded. She disclosed that she was married to the present applicant and they were blessed with two daughters. She was married to the applicant in the year 2010. It was a love marriage. She has further disclosed that applicant had got re-married in the year 2012. According to Mallamma, he had got re-married at the behest of his family members. She had no knowledge about the same. She had learnt that second wife of applicant, Kamalabai had given birth to two issues, one boy and a girl. On 06/05/2016, applicant had not gone for work. There was quarrel in the afternoon between husband and wife. Present applicant had poured kerosene on Mallamma and set her ablaze. She raised hue and cry and thereafter, he had attempted to extinguish the fire. The neighbours had called upon the mother of the victim and thereafter, she was taken to the hospital. The victim Mallamma had succumbed to the burn injuries on 07/05/2016.

3) The learned counsel for the applicant vehemently submits that the applicant had made efforts to extinguish the flames and in the said course, had sustained burn injuries and was also admitted in the hospital. The learned counsel has further submitted that applicant had no intention to eliminate his wife. That the incident had occurred in a fit of rage.

- 4) As against this, the learned APP has submitted that the case rests upon the dying declaration of the victim. There was no reason for the victim to falsely implicate the present applicant. It is also submitted that it is a case of custodial death and that Mallamma had sustained burn injuries when she was in exclusive custody of the applicant.
- 5) It is true that the case rests upon the written dying declaration. The statement of the victim is also recorded by the Executive Magistrate on 06/05/2016. She has reiterated the said contentions. There is no inconsistency in both the statements. Hence, applicant does not deserve to be enlarged on bail at this stage.
- 6) Application, being sans merits, stands rejected.

(SMT. SADHANA S. JADHAV, J.)