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IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CRIMINAL APPELLATE JURISDICTION

BAIL APPLICATION NO. 2322 OF 2015

Irfan Abdul Jabbar ShaikhApplicant.

Vs

The State of Maharashtra & AnrRespondents.

Mr Rishi Bhuta for the applicant.

Mr Rutuja Ambekar, APP for the State.

CORAM : A.S.GADKARI, J.

DATE : 18th February, 2016

PC.

1) The applicant is seeking bail in CR No. 249/2014, dated 18/6/2014 registered with Dharavi Police Station, Mumbai for the offence punishable under sections 302, 498-A read with section 34 of IPC.

2) The First Information Report (FIR) is lodged by Mr Haleem Nasim Khan, the brother of the deceased Smt. Meena. In the said FIR, it is stated that the applicant is the husband of deceased Smt. Meena. The applicant and his relative used to harass the deceased for bringing money from her parents. Two months prior to the date of incident i.e. 15.6.2014 the applicant was pressurizing the deceased for bringing money from her parents. That on 15.6.2014 at about 1:00 a.m. the daughter of the complainant informed him on

phone that Smt. Meena was fully burnt. When the said Smt. Meena was taking treatment at hospital, the son of Meena, Master Imran informed him that on the day of the incident the applicant poured kerosene on the deceased and ignited the fire. That the deceased caught the applicant. However, he pushed her and ran away from the house. In the premise, the said FIR was lodged. After completion of investigation, the police have filed charge-sheet.

3) The record discloses that immediately after the incident i.e. on 15.6.2014 the statement of Smt. Meena Irfan Shaikh was recorded by the police, wherein she had stated that on 15.6.2014 at about 00:45 a.m. she was cooking the food. That she gave pump to the kerosene stove. At that time, the kerosene spilled out from the burner and fallen on her gown. The said stove all of a sudden caught fire and the gown which was on the person of the said deceased also caught fire. That her husband came at the house at about 1:00 a.m. when she was screaming. Her husband opened the door and thereafter doused the fire. The people in the nearby vicinity thereafter admitted her to the hospital. It further appears from the record that said Meena succumbed to her injuries on 18.6.2014; and thereafter, as stated above, her brother Halim Nasim Khan lodged the FIR.

4) The statement of the son of the applicant, namely Imran has been recorded in question and answer form by the police, wherein he has stated that on the fateful night there was quarrel between the deceased and the applicant which ensued in the scuffle. At that time the applicant poured kerosene on the person of deceased and ignited the same with the match-stick. Thereafter, the applicant left the said place. The said Imran stated that he thereafter informed the said fact to the neighbours who came there. He has further stated that when his mother tried to caught hold of the applicant, he pushed his mother and, therefore, his father's hands have also burnt. It is to be noted that in the very first statement, which was recorded on 15.6.2014, the deceased has not attributed any blame to anybody and has stated that the said fire was due to an accident or the burst of stove.

5) The record further discloses that the applicant also received 60% of burns in the said incident and when he was admitted to hospital on 15.6.2014 up to 18.6.2014. It further appears from the record that the applicant was thereafter taking medical treatment and is arrested on 28.5.2015. It prima facie appears that the first statement of the deceased recorded by the police is more reliable, wherein she has stated that the applicant doused the flames which

had engulfed her. It appears that during the said incident, the applicant has also received 60% of burn injuries on his person. In view of the same, the applicant has made out a case for his release on bail.

4) Hence, the following order :

ORDER:-

- (a) The applicant shall be released on bail in CR No.249/2014 registered with Dharavi Police Station, Mumbai on his furnishing a P.R. bond of Rs.25,000/- with one or two sureties in the like amount;
- (b) After his release from jail, the applicant shall not enter the jurisdiction of Dharavi Police Station, Mumbai;
- (c) After release from jail, the applicant shall attend the trial Court on every first Monday of the month between 11:00 a.m. to 1:00 p.m. till conclusion of the trial apart from the Court dates;
- (d) The applicant shall not tamper with the evidence and/or influence the witnesses;
- 6) The application is allowed in the aforesaid terms.

(A.S. GADKARI, J.)