

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
NAGPUR BENCH, NAGPUR.

CRIMINAL APPLICATION (APPA) NO. 655/2016
IN CRIMINAL APPEAL NO. 384/2016.

kailash Rameshwar Thada

-VERSUS-

The State of Maharashtra

Office notes, Office Memoranda of
Coram, appearances, Court's orders
or directions and Registrar's orders.

Court's or Judge's Orders

CORAM : B. P. DHARMADHIKARI
& A.S. CHANDURKAR, JJ.

DATE : OCTOBER 19, 2016.

Heard Shri Anil Mardikar, learned
Senior Counsel with Shri S.G. Joshi, learned
Counsel for the applicant/appellant and Shri R.S.
Nayak, learned A.P.P. for respondent.

2. Date of incident is 16.02.2008 and after
deceased Lady was shifted to Shreeram Hospital,
upon intimation and after due verification, her
only dying declaration Exh.70, was recorded at
about 8 p.m. It is not in dispute that the lady in
her dying declaration has disclosed suicide by

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pouring kerosene from stove and consequential burning. She has also stated that present applicant/appellant came there and saved her.

3. She died on 21.02.2008. Accidental death was recorded on 22.02.2008, and statements of her relatives recorded on that day are in consonance with the dying declaration.

4. On 19.03.2008, her brother (P.W.2) filed a typed written complaint (Exh.42) and alleged commission of offence. Thereafter again second spot panchnama and the statement under Section 161 of very same persons were recorded. The persons at that juncture have given inconsistent statements.

5. It is not in dispute that Exh.70 though forms part of charge sheet, prosecution did not explain and did not prove it. It was exhibited during cross-examination of the Investigating Officer and thereafter appellant examined witness in defence to prove endorsement of witnesses upon it, or to prove its due recording by the Executive Magistrate.

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6. The applicant/ appellant was on bail throughout. Charges leveled against him were also under Section 376, read with Sections 511, 302 and 506 of Indian Penal Code and he has been acquitted of other charges.

7. In this situation, we find him entitled to grant of bail.

8. Thus, on same terms and conditions on which he was released during the pendency of the trial, he shall be again released after obtaining fresh bonds and necessary documents. He shall also undertake to remain present in the Trial Court on first Monday in every alternate month or on such other date as the trial Court may direct, which will form a condition of his release and its violation will automatically result in cancellation of bail.

9. Criminal Application is accordingly disposed of. No costs.

JUDGE

JUDGE

Rgd.

CERTIFICATE

I certify that this judgment/order uploaded is a true and correct copy of original signed judgment/order.

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Pvt. Sec.