

**IN THE HIGH COURT AT BOMBAY
APPELLATE SIDE, BENCH AT AURANGABAD**

11 CRIMINAL APPLICATION NO. 1062 OF 2017

SHOBHABAI W/O RAMKISHAN BAGAL
VERSUS
THE STATE OF MAHARASHTRA

...
Advocate for Applicant : Mr. A.M. Gaikwad
APP for Respondent : Mr. S.M. Ganachari
...

CORAM : T.V. NALAWADE, J.
DATED : 15th March, 2017.

ORDER :

1. The application is filed for bail. Both the sides are heard. It was submitted by the learned counsel for applicant that this is the first bail application filed in this Court.

2. Deceased Pandurang Bagal was aged about 65 years and he was brother-in-law of present applicant. Chargesheet is filed against her for the offence punishable under section 302, 34 etc. of Indian Penal Code. There was some dispute over some space between the family of accused and the family of deceased. It was the contention of the deceased that the disputed place was given to him due to mediation done by some neighbours and he wanted to make construction of toilet block over that space. The prosecution wants to show that present applicant was against it and she was not admitting that space

was given to the deceased.

3. The incident in question took place on 29.9.2016 at about 3 p.m. in the courtyard of the house of deceased. The house of the present applicant is situated adjacent to the house of deceased. There are two dying declarations of the deceased in which he disclosed that at the relevant time, the applicant/accused picked up quarrel with him, she gave abuses and during quarrel she fetched kerosene can from her house, poured it on his person, set fire to him and then ran away.

4. There are statements of inmates of the house of the present applicant showing that they came out of the house when they heard hue and cry of the deceased. The statements do not show that they heard any conversation which was allegedly going on between the present applicant and the deceased. The deceased sustained 40% burn injuries. From the spot of offence, nothing is taken over and at this stage, there is nothing on the record to show that on the spot of offence, some kerosene was found.

5. The learned APP heavily relied on the two dying declarations of the deceased and submitted that they are

sufficient to make out the case against the applicant. Though there are two such declarations, there are aforesaid circumstances also. Even during trial it will be necessary for the Court to ascertain the truthfulness of the dying declarations. The applicant is a lady aged about 45 years and she has been behind bars for about five months. Considering the nature of statements given by the close relatives of the lady and of the neighbourers, it cannot be said that there is possibility of tampering of the prosecution witnesses known to her and who had seen in the vicinity at the relevant time when they rushed to the spot after hearing hue and cry of the deceased. In view of these circumstances, this Court holds that it is not desirable to keep the applicant behind bars till the disposal of the case which is filed against her.

6. In the result, the application is allowed. The applicant is to be released on bail on her furnishing PR and SB of Rs.25,000/-. She is not to tamper the prosecution witnesses.

[T.V. NALAWADE, J.]

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