

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY,
AURANGABAD BENCH, AURANGABAD**

CRIMINAL APPLICATION NO. 2195 OF 2017

Bapusaheb s/o Bhaskar Dhage ... Applicant

VERSUS

The State of Maharashtra ... Respondent

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Mr. K.R.Doke & S.K.Doke, advocates for the
applicant

Mr. S.J.Salgare, A.P.P for respondent

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CORAM : K.L.WADANE, J.

DATED : 23rd JUNE, 2017

O R D E R :

Heard learned counsel for the applicant
and the learned A.P.P. for respondent.

2. On the information given by the informant
namely Manisha Babasaheb Chobe, offence came to be
registered against the applicant and his mother at
Crime No. 40 of 2017 in Bhoom police station,
District Osmanabad, for the offence punishable
under Section 302, 201 r/w 34 of the Indian Penal
Code.

3. The deceased was given in marriage to the
present applicant and their marriage was

solemnized on 20.2.2015. At the time of incident, the deceased was pregnant and was carrying for 7 to 8 months. As the deceased was not appearing happy and always was found nervous, inquiry was made with her mother i.e. the informant and the deceased disclosed that the husband and his mother were asking her to terminate her pregnancy. The deceased was brought to the house of parents for delivery.

4. On 15.2.2017 as usual informant and her husband had gone to the field. On return from the field, the informant was told by her mother-in-law that as there was voting on the next day the applicant asked the deceased to accompany him and as such deceased left the house with the applicant. On 16.2.2017 the information was received that the deceased received burn injuries. When the complainant and other relatives went to the village, they found that deceased was already dead.

5. Learned counsel appearing for the applicant submits that the deceased died due to

accidental fire and that is clear from the statement of neighbour and from the contents of the spot panchanama. He further submits that the accused was present in the village, but not on the spot. As per the statement of witnesses the presence of the applicant was up to 11.00 a.m. in the village, however, there is no clarification coming out from the statement of witnesses whether applicant was present in the house when the door of the house was broke open. On the contrary, from the statement of neighbour and from the contents of spot panchanama, it reveals that the smoke was coming out, therefore, they went to the room and found that door of the room was locked by latching from inside. Attempt was made to enter the room from roof portion, however, they could not enter, and therefore, they were required to open the door forcibly and then they tried to extinguish the fire, but till then the deceased was dead.

6. Looking to these statements of neighbour and circumstances appearing from the spot

panchanama, prima facie, it appears that present applicant was not present in the house when the incident took place. The applicant may be present in the village as per the statement of other witnesses, but by no stretch of imagination it can be said that at the time of incident the present applicant was inside the room.

7. Further more, from the contents of postmortem notes, it reveals that no final opinion as to the cause of death is given. The viscera is preserved. The report of viscera is material to know whether the deceased died due to poisoning or not.

8. Learned A.P.P. further submits that after investigation charge sheet has been filed against the applicant in the Court of Additional Sessions Judge, Bhoom.

9. Looking to the above circumstances, I am of the opinion that the applicant can be released on bail by putting certain conditions. Hence, following order.

(i) Criminal Application is allowed.

(ii) Applicant shall be released on bail in the event of his arrest in connection with Crime No. 40 of 2017 in Bhoom police station, District Osmanabad, for the offence punishable under Section 302, 201 r/w 34 of the Indian Penal Code. on furnishing P.R. bond of Rs. 25,000/- with one surety in the like amount.

(iii) Applicant shall not tamper with the evidence of prosecution in any manner.

10. Criminal Application is disposed of.

(K.L.WADANE, J.)

dbm/crap2195.17