

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

CRIMINAL APPLICATION NO. 2308 OF 2017

Milind s/o Suresh Gove **... Applicant**
Age 25 years, Occu: Agri.
R/o Andur, Tq. Tuljapur,
District Osmanabad

VERSUS

The State of Maharashtra, **... Respondent**
Through Naldurga Police Station,
Tq. Tuljapur, Dist. Osmanabad.

Mr. P. P. More, Advocate for the applicant
Mr. A. D. Namde, APP for the State.

CORAM : K. L. WADANE, J.

DATE : 20th June, 2017

ORDER:

1. Heard Mr. More, learned counsel for the applicant and Mr. Namde, learned APP for the State.

2. This application is filed under section 439 of the Criminal Procedure Code for bail in connection with Crime No.94/2016, registered with Naldurga Police Station, Tq. Tuljapur, Dist. Osmanabad for the offences punishable under Sections 302, 307, 504, 506 read with Section 34 of the Indian Penal Code.

3. On 06/05/2016, one Anita Sukhse lodged complaint to Naldurga Police Station alleging that the present applicant Milind was to pay Rs.2000/-, which she had paid him previously. On 04.05.2016, she sent her two sons to take the said amount from the

applicant, to which, he refused and abused her sons. Allegations are that, thereafter her husband went to meet the accused and demanded the amount but the applicant also abused him and threatened. Further, it is alleged that at about 7.00 p.m, her husband had been to the field of one Shiru Gove for dinner. Informant and her three sons were at home. At that time, the applicant came near their home and abused in the name of her husband and repeatedly told that he will set her house on fire. He was then taken away by people who were gathered there. At about 09.00 p.m, her son Balappa @ Balu, who was sleeping on the cot, started shouting, due to which she and her other sons wake up and saw that Balappa had caught fire. It is further alleged that she saw the present applicant Milind and Balasaheb running away from the spot on the motorcycle. Balappa was taken to the Hospital for treatment. On the basis of report given by the informant, the offence was registered against the accused persons. Balappa subsequently died.

4. During the course of argument, Mr. More, the learned counsel for the applicant pointed out certain discrepancies between two dying declarations of the deceased. It appears that first dying declaration of

the deceased Balappa was recorded on 5th May, 2016 at about 2.30 a.m. by Police Inspector S. S. Jagtap in question and answer form and while answering question No.14, Balappa complained against the present applicant and has specifically stated that the present applicant set on fire the cot on which he was sleeping. Another dying declaration was recorded on the same day at 11.30 p.m. by one R. D. Panchal, API. The same is also in question and answer form and while answering question No.10, deceased has specifically stated that the present applicant and another accused Babasaheb have set him on fire and ran away. Thus there are minor discrepancies in the two dying declarations. However, this aspect can be considered by the learned Sessions Judge while considering the offence and conclusion of the trial.

5. Considering the seriousness of the offence and more particularly when the applicant is named as main culprit of a serious offence of murder, I am of the opinion the the applicant is not entitled for bail. Hence the application is rejected.

(K. L. WADANE, J.)

JPC