

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
CRIMINAL BAIL APPLICATION NO. 48 OF 2017

Mr. Haresh Chagan Khalse	...	Applicant
Vs.		
The State of Maharashtra	...	Respondent

Ms. Saroj Shinde, Advocate for the applicant.
Mr.Arfan Sait,APP, for the State.

CORAM: SMT.SADHANA S.JADHAV, J.
DATE : 31st January, 2017.

P.C.

Heard. This is an application under Section 439 of Cr.P.C. The applicant herein is arrested on 29.5.2016 in Crime No.143 of 2016 registered at Bhiwandi City Police Station. The investigation is completed and charge sheet is filed against the accused for the offences punishable under Sections 302, 307, 452, 504 read with Section 34 of the Indian Penal Code.

2. It is the case of the prosecution that on 29.5.2016, Smt. Satabai Londhe was admitted in Indira Gandhi Hospital at Bhiwandi with history of burn injuries. It appeared to be a medico-legal case. Therefore, her statement was recorded by the police. She has disclosed to the police that on 28.5.2016 her sons Shivaji and Arun were assaulted by the present

applicant and Sanjay Londhe. Due to this, there was a quarrel between both the families. However, with the intervention of the neighbours, the parties were pacified. On 29.5.2016 at about 1.30 p.m. in the afternoon, Sumabai Khalse and her daughter-in-law Vandana i.e. wife of the present applicant had been to her house and started abusing her over the quarrel between the parties on various dates. In the meanwhile, Haresh had entered into the house carrying a plastic can filled with kerosene poured the contents of the same on the person of Satabai and set her ablaze. Her sister Leela had extinguished the flames and she was taken to the police station. The police had referred the injured to Indira Gandhi Hospital. On the basis of the statement of injured, Crime No.143 of 2016 was registered at Bhiwandi City Police Station against the applicant for the offences under Sections 307, 504 and 452 of the Indian Penal Code. The statement of the injured was also recorded by the Executive Magistrate in which the injured had reiterated the same story and had also disclosed to the Executive magistrate that on 30.5.2016 Haresh poured kerosene on her person and set her ablaze.

3. The learned counsel for the applicant submits that the investigating agency has recorded the statements of the relatives of the deceased and that they are interested witnesses. It is also submitted that she had succumbed

to the injuries on 1.6.2016. It is also submitted that investigation is completed and charge-sheet is filed and therefore, further incarceration would be unwarranted.

4. Upon perusal of papers of investigation, it is clear that the present case rests on dying declarations of Smt. Satabai. There are two consistent dying declarations. The question whether the said dying declarations are voluntary, truthful and inspire confidence of the Court would be a matter of trial and hence it would not be appropriate to enlarge the applicant on bail. However, the observations hereinabove are restricted to an application and the same shall not be taken into consideration for the purpose of quashing of FIR, discharge application or at the time of trial.

5. The application being sans merit, stands rejected.

(SMT. SADHANA S.JADHAV, J.)