

Vidya Amin

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

BAIL APPLICATION No. 56 OF 2017

Dhananjay Dagadu Devkar	... Applicant
Vs.	
The State of Maharashtra	... Respondent

Mr. Ritesh Thobde, Advocate for the Applicant.
Mr. S.H. Yadav, APP for Respondent – State.
Mr. Annasaheb B. Gholap, P.I., Karmala Police Station, District Solapur
present.

CORAM: **MRS.MRIDULA BHATKAR, J.**
DATE: **30th January, 2017.**

P.C.:

1. Not on Board. Upon mentioning, taken on Board.
2. This Application is moved by the applicant/accused for bail, as he is facing prosecution for the offence of murder of his wife punishable under section 302 and sections 307 and 506 of the Indian Penal Code in C.R. No. 455 of 2016 with Karmala Police Station, Solapur. Puja Dhananjay Devkar, wife of the applicant/accused has given dying declaration/complaint on 21st September, 2016.
3. Puja married with applicant/accused on 16th April, 2012 and out of the said wedlock, the couple has son of 2 ½ years old and on the date of incident, i.e., 21st September, 2016, she was pregnant of 5 months. It is her case that applicant/accused was suspicious about her character and they used to fight on this count. The applicant/accused used to harass

and abuse her. On the night intervening 20th September and 21st September at 3.30 a.m. her husband poured kerosene on her and set her on fire. She got burnt and shouted for help. So, the persons from adjacent houses helped her to extinguish the fire and she was shifted to the hospital. She was conscious. She gave information to the police. Immediately, the applicant was arrested on 22nd September, 2016 and since then he is in prison. Hence, this Bail Application.

4. The learned counsel for the applicant/accused has submitted that the applicant/accused is innocent and he has not killed his wife. The learned counsel relied on the statements of landlord and landlady, i.e., Tukaram Baliram Vase and Sangeeta Tukaram Vase, recorded on 23rd September, 2016. As per the statement of Tukaram, the applicant/accused had called them in the early morning as deceased broke the T.V. and the applicant had assaulted his wife and then he went to the toilet. At that time, deceased went inside the room and locked the door from inside. The landlord and landlady told her to open the door but she did not and so they peeped through the window, at that time they saw that she poured kerosene on her body and set her on fire. The applicant/accused and other persons kicked the door, broke the inner bolt and opened the door. The deceased had ablazed and was lying on the floor. The learned counsel submitted that the applicant/accused though had fight with her prior to the incident, he did not set her on fire. The

applicant/accused has no criminal antecedents. The learned counsel submitted that applicant/accused is inside the prison since then and hence he be released on bail.

5. Learned APP opposed the Application and submitted that deceased has given dying declaration which is against the applicant/accused. He further submitted that in the dying declaration, she has specifically told that her husband poured kerosene on her and set her on fire and therefore, she was burnt. He relied on the postmortem notes wherein the cause of death is mentioned as septicemia due to burn injuries.

6. Perused the FIR and the statements of landlord, landlady and the neighbours. In the complaint/dying declaration, the deceased has blamed the applicant/accused as perpetrator. She told that applicant/accused poured kerosene and set her on fire. However, the statements of landlord and landlady and neighbours are perused and it gives a different story that the deceased set herself on fire, as she was angry with the applicant/accused. The statement of the father of deceased disclosed that at around 4.30 a.m. on 21st September the landlady communicated her father that why he did not take away his daughter on the earlier day and now she has set herself on fire. All these statements *prima facie* creates doubt whether the incident has taken place in the manner in which it is described by the complainant in her dying declaration. It is also noted that

the applicant/accused and deceased have son of 2 ½ years old. The charge-sheet is filed. Under such circumstances, I am inclined to grant bail to the applicant/accused on the following terms and conditions:

ORDER

1. Application is allowed.
2. The applicant/accused be enlarged on bail on furnishing P.R. Bond in a sum of Rs.20,000/- with one or two sureties in the like amount;
3. The applicant shall not pressurize the witnesses;
4. The applicant shall attend all Court dates.
5. The applicant shall not abscond or leave India without prior permission of the Court and furnish his permanent address to the Investigating Officer alongwith documentary proof of his address;
6. In the event of breach of any of the above conditions, the prosecution will be at liberty to move the Court for cancellation of bail.
7. The Application for bail stands disposed of on above terms.

(MRIDULA BHATKAR, J.)