

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
CRIMINAL APPLICATION NO. 134 OF 2017
(FOR BAIL)
IN
CRIMINAL APPEAL NO. 1070 OF 2015**

Arumugum Arundatiyar,
age 25 years, Occ.: Nil,
Resident of : Vijaynagar Zopadpatti,
Antop Hill, Mumbai - 400 037 ...Applicant
(Presently lodged in Nasik Central Prison)

Versus

The State of Maharashtra,
(At the instance of Govandi
Police Station) ...Respondent

Mr. Arjun Kode a/w Mr. S. K. Zende i/b Ms. Shashikala Uttam
Jagtap for the Applicant

Mr. H. J. Dedia, A.P.P for the Respondent-State

**CORAM : SMT. V. K. TAHILRAMANI &
REVATI MOHITE DERE, JJ.
TUESDAY, 28th FEBRUARY, 2017**

ORAL ORDER (Per Smt. V. K. Tahilramani, J.) :

1. Leave to amend. Amendment to be carried out
forthwith.

2. Heard both sides.

3. The applicant has been convicted under Sections 341 and 307 of the Indian Penal Code. For the offence under Section 307, the applicant has been sentenced to life imprisonment. The applicant is now seeking bail.

4. It is the prosecution case that the applicant and PW 1-Rajeshwari were having a love affair. However, the family members of Rajeshwari came to know about their love affair and they opposed the same. Hence, PW 1-Rajeshwari stopped talking to the applicant. However, the applicant used to still follow Rajeshwari. Prior to the incident, at G.T.B Station, the applicant obstructed Rajeshwari and assaulted her because she was refusing to marry him. The evidence of Rajeshwari shows that the incident occurred at around 8:00 p.m. on 8th May, 2014 when she was returning home in a rickshaw. When she was in front of Satyabhama Hotel, the applicant stopped the rickshaw and pulled her out of the rickshaw. The applicant assaulted Rajeshwari with knife on the neck and hands, as she was refusing to marry him. Rajeshwari received bleeding injuries on her neck and hands. People gathered at the spot, however, the

applicant issued threats to the public that if anybody comes forward, he will cut that person. Therefore, nobody came forward. Meanwhile, police van came to the spot. Then, the applicant left Rajeshwari and ran away. Police took Rajeshwari to Shatabdi Hospital. Her wounds were stitched at Shatabdi Hospital. Rajeshwari had received injuries at three places on her neck on the right side and left side as well as on her hand.

5. There is an eye-witness to the incident i.e. PW 3-Shashikumar. The learned Counsel for the applicant submitted that the applicant was not known to Shashikumar prior to the incident. In such a case, test identification parade ought to have been held and as it has not been held, the evidence of Shashikumar cannot be relied upon. Even if we do not take into consideration the evidence of Shashikumar, the evidence of PW 1-Rajeshwari clearly shows the involvement of the applicant in the crime.

6. Thereafter, the learned Counsel for the applicant submitted that the evidence of PW 8-Dr. Andhale, who examined

Rajeshwari, shows that the injuries were simple in nature. He submitted that in such case, the applicant could not have been convicted under Section 307 of the Indian Penal Code. Dr. Andhale, on external examination, noticed the following external injuries on the person of Rajeshwari:

“(i) Incised wound over right side of neck anterior aspect 4 x 1 x 1cm;

(ii) Incised wound over right side of neck anterior aspect 3 x 0.5 x 0.5 cm.

(iii) Incised wound over left side of neck anterior aspect 5 x 1 x 1 cm.

(iv) Incised wound over right forearm 3 x 0.5 x 0.5 cm.”

Thus, it is seen that the incised wound on the right side of the neck was 4 cm in length. The second injury on the right side of the neck was 3 cm in length and the incised wound on the left side of the neck of Rajeshwari was 5 cm in length. Dr. Andhale has categorically stated that if the injuries were little deeper, it would have been fatal. The explanation Dr. Andhale gave for stating that the injuries were simple was that the blood

vessels were not cut. However, looking to the medical evidence, it can be seen that the applicant caused serious injuries to Rajeshwari on the vital part of the body i.e. neck with a deadly weapon i.e. knife.

7. Thereafter, learned Counsel for the applicant submitted that the applicant had no intention or knowledge that his act would cause serious injuries to Rajeshwari, which may result in her death. However, looking to the fact that the applicant had used a deadly weapon like knife and assaulted Rajeshwari three times on the neck with knife which has caused extensive injuries which were 4 cm, 3 cm and 5 cm long, we are of the opinion that the applicant had intention and knowledge that his act may result in Rajeshwari's death. The evidence of Rajeshwari also shows that she was admitted in hospital for one week. It is seen that on seeing the incident when people gathered at the spot, the applicant gave threats that if anyone comes forward he will cut them. It is pertinent to note that only after the police arrived the applicant ran away, till then he was assaulting Rajeshwari. Thus, if the police had not arrived, the

applicant would have continued to assault Rajeshwari and caused her death.

8. Instances of this nature are on the rise. When a girl refuses to marry a boy, the boy assaults the girl either with deadly weapon or throws acid on the girl or does some act which would either cause the death of the girl or endanger her life. Such instances have to be dealt with by an iron hand.

9. Looking to the facts of this case, we are not inclined to grant bail. Application is rejected. However, the hearing of the appeal is expedited.

(REVATI MOHITE DERE, J.)

(V. K. TAHILRAMANI, J.)