

Anand

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION**

BAIL APPLICATION NO.285 OF 2017

Govind Shivaji Bhosle .Applicant

Vs.

The State of Maharashtra .Respondent

Mr.S.R.Pille, Advocate, for the Applicant
Mr.M.G.Patil, APP, for the Respondent – State

CORAM : REVATI MOHITE DERE, J.

DATE : 08.08.2017

P.C.

. Heard learned counsel for the parties.

2. By this Application, the Applicant seeks his enlargement on bail in connection with C.R.No.I-86 of 206 registered with the Shivajinagar Police Station, Thane, for the alleged offences punishable under Sections 304(b), 498A r/w 34 of the Indian Penal Code and under Sections 3 & 4 of the Prevention of Dowry Act.

3. Learned counsel for the Applicant submits that the Applicant has been falsely implicated in the said case. He submits that the incident is of 30.03.2016 at about 10.00 p.m. and that in the first

complaint made to the Sion Police Station, Mumbai, no allegations were made by the Complainant, with regard to an alleged oral dying declaration made by his daughter. He submits that even in column 6 of the Post Mortem Report, it is mentioned as, “history given is accidentally catching fire due to stove blast”. He submits that for the first time, the Complainant has alleged in his complaint/FIR dated 10.04.2016, that his daughter had disclosed that it is the Applicant, who had set her ablaze. He submits that all the co-accused have been either granted regular or anticipatory bail.

4. Learned APP opposes the Application. He submits that there are statements of witnesses which have been recorded under Section 164 of the Code of Criminal Procedure, which show the complicity of the Applicant.

5. Perused the papers. The Complainant – Namdeo Panditrao Kadam is the father of deceased – Meera. It appears that the Applicant and deceased – Meera were married in 2012 and had one issue. It is alleged by the Complainant, that initially for a few years, his daughter was treated well and thereafter, after the birth of the daughter, the Applicant's behaviour changed. He has alleged that the Applicant would

quarrel with Meera on trivial issues and would even assault her. He has further alleged that the co-accused i. e. in-laws and brother-in-law would starve her and were demanding dowry of Rs.50,000/-. According to the Complainant, in November, 2015, the Applicant told him, that he wanted to stay in Ambarnath close to his house. He has stated that he thought that if the Applicant and his daughter came to reside near their house, his daughter would be away from her in-laws and the Applicant's behaviour would improve. The Complainant has alleged that when the Applicant and his daughter – Meera started residing near their house, the Applicant again demanded a sum of Rs.50,000/- for purchasing a pickup tempo. According to the Complainant, on 30.03.2016 at about 9.00 p.m., he had been to his daughter – Meera's house. He has stated that after having dinner, he returned back to his house. He has alleged that at around 10.00 p.m., Meera's neighbour Malusare Tai came home and disclosed that there was smoke coming from the Applicant's house. He has alleged that pursuant thereto, they went to the Applicant's house and found that the door was locked and hence started giving kick blows. He has alleged that the Applicant opened the door. He has stated that the Applicant had a TV remote in his hand and there was smoke in the hall. He has stated that his daughter was lying in burnt condition and was saying that they should take her to the hospital. Pursuant thereto, Meera

was initially taken to a hospital, at Ulhasnagar and thereafter, since her condition was serious, to the J.J.Hospital. Meera expired on 04.04.2016. It appears from the statement dated 04.04.2016 given by the Complainant to the Sion police, that he has not disclosed that when he went to the house of the Applicant, the door was closed nor had he disclosed about an oral dying declaration made to him, by his daughter – Meera. The Post Mortem Report (Column 6) also shows that the history given is accidentally catching of fire due to stove blast at around 10.30 p.m. No doubt, there are allegations of dowry demand but the question that arises is, whether on the date of the incident i.e. on 30.03.2016, the Applicant had set her ablaze, prima facie, considering the inconsistencies on record, with regard to the same. Be that as it may, the same will be decided by the trial Court. The Applicant is in custody since 16.04.2016. Investigation is complete and charge-sheet is filed. Accordingly, the Application is allowed and the Applicant is enlarged on bail on the following terms & conditions :-

ORDER

- (i) The Applicant be enlarged on bail, on executing PR Bond in the sum of **Rs.30,000/-** with one or two sureties in the like amount;
- (ii) The Applicant shall report to the investigating officer of the concerned police station on the **1st Monday of every month** between

10.00 a.m. to 12. 00 noon till the conclusion of the trial;

(iii) The Applicant shall not tamper with the evidence or attempt to influence or contact the complainant, witnesses or any person concerned with the case;

(iv) The Applicant to cooperate with the conduct of the trial;

(v) The Applicant to file an undertaking with regard to Clauses (ii) to (iv) within one week of his release in the trial Court;

(vi) If there is a breach of any of the aforesaid conditions, the prosecution shall be at liberty to seek cancellation of the applicant's bail.

6. The Application is allowed in the aforesaid terms and is accordingly disposed of.

7. It is made clear that the observations made herein are *prima facie*, and the trial Court shall decide the case on its own merits, in accordance with law, uninfluenced by the observations made in this order.

Parties to act on the authenticated copy of this order.

(REVATI MOHITE DERE, J.)