

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
CRIMINAL APPLICATION NO. NO. 269 OF 2017
IN
CRIMINAL APPEAL NO.397 OF 2016

Jagannath @ Jagdish Shivaji Natekar	...Applicant/Appellant
versus	
The State of Maharashtra	Respondent

Mr. Ganesh K. Gole, advocate for the applicant.
Mrs. M. M. Deshmukh, APP for the State.

**CORAM : RANJIT MORE &
SMT.ANUJA PRABHUDESSAI, JJ.**

DATE : 30th MARCH 2017.

P. C. :

Heard Mr. Gole, learned counsel for the applicant and Mrs. Deshmukh, learned APP for the State.

2. The applicant along with his parents, brother and sister-in-law were charged for the offences punishable under Sections 302, 304B and 498A of the Indian Penal Code, 1860. The applicant's brother and sister-in-law were acquitted of the said offences. The applicant's parents were convicted for offence punishable under Section 498A of the Indian Penal Code, 1860. The applicant, however, is convicted for the offences punishable under Section 302 and 498A and sentenced to suffer life imprisonment. The present application is filed for bail pending the above appeal.

3. The wife of the applicant died of burn injuries. The evidence shows that she suffered 70% to 80% of burns. The conviction is based on the oral dying declaration given to PW-1 – father, PW-2 -mother and PW-3-sister of the deceased. We have perused the depositions of PW-1, PW-2 and PW-3. They have stated that they received information on 8th November, 2012, at 6.00 am that the deceased suffered burn injuries and was admitted in Rajawadi Hospital and accordingly, when they reached Rajawadi Hospital in the afternoon, the deceased was groaning in pain. The deceased told these witnesses that the applicant had set her on fire. The applicant has, however, brought on record that the statement “the applicant had set the deceased on fire” is an omission.

4. That apart, the deposition of PW-8-Dr. Prasanjkumar Pralhad Bajaj shows that the deceased was brought to Rajawadi Hospital on 8th Novembr, 2012, at 2.50 am. He examined the deceased and found that the deceased had suffered severe burns. This witness further stated that when he examined the deceased at 3.00 am., she was conscious and oriented. She gave history on her own that she received accidental burns while cooking food. This witness further stated that by 4.00 am, the deceased was drowsy due to medicines like painkillers and her condition deteriorated at around 5.40 a.m and she was unable to give statement and she ultimately died at 6.10 a.m. The evidence of PW-12 –

PSI - Prakash Tukaram Sutar discloses that the applicant received 35% of burns and, he was admitted in the very same hospital, where the deceased was admitted.

5. Considering the nature of the evidence, we are of the opinion that case for bail is made out. We, therefore, allow the bail application on the following terms and conditions:

1. The applicant be released on bail on furnishing bail bond in the sum of Rs.25,000/-(Rupees Twenty-Five Thousand Only) with one or two solvent sureties in the like amount to the satisfaction of the Sessions Judge, Greater Mumbai.
2. The applicant shall attend Ghatkopar Police Station on first Sunday of every month during the pendency of the appeal.
3. The applicant shall remain present at the time of final hearing of the above appeal.

The criminal bail application stands disposed of.

(SMT. ANUJA PRABHUDESSAI, J.)

[RANJIT MORE, J.]