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

**CRIMINAL APPLICATION NO. 554 OF 2017
IN
CRIMINAL APPEAL NO. 331 OF 2017**

Baban Datta Gaikwad

...Applicant

Vs.

The State of Maharashtra

...Respondent

Mr. Ganesh Bhujbal, Advocate for the Appellant

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

**CORAM : SMT. V.K. TAHILRAMANI, &
M.S. KARNIK, JJ.
DATED : 19TH APRIL, 2017**

P.C. :

1. Heard both sides.
2. The Applicant has been convicted under Section 302 of the Indian Penal Code for causing the death of Puja by setting her on fire. The Applicant is now seeking bail.
3. According to the prosecution there are two eye witnesses in this case i.e. P.W. No.2 Sanyukta Balaji Bansode and P.W. No.3 Mayuri Balaji Bansode. Both Sanyukta and Mayuri were the

daughters of deceased Puja. As far as Mayuri is concerned she was not in the house when the incident took place. She has stated that she saw smoke coming out of her house, therefore, she rushed home. When she went inside the house she saw that her mother had caught fire and the Applicant was pushing her mother towards the wall. However, the cross examination of this witness shows that her averments in her examination-in-chief that the Applicant was pushing Puja towards the wall is an improvement, thus, it cannot be taken into consideration.

4. The second witness on which reliance is placed by the prosecution is P.W. No.2 Sanyukta who was the daughter of the deceased. Sanyukta has stated in her examination-in-chief that she was playing outside the house. The Applicant poured kerosene on her mother and set her on fire with a matchstick. However, in the cross examination of this witness she has admitted that while she was playing outside suddenly the stove exploded and due to flames her mother shouted. She has further stated that the Applicant tried to douse the fire due to which his palms were burnt. Thereafter the Applicant took her mother in an autorikshaw to the hospital. Thus,

we find that there is no reliable evidence which connects the Applicant to the death of Puja. The evidence of P.W. Nos. 2 and 3 and the other evidence does not show beyond reasonable doubt that the Applicant set Puja on fire. Thus, we are inclined to grant bail to the Applicant. Hence, we pass the following order:

1. The Applicant Baban Datta Gaikwad be released on bail in the sum of Rs.40,000/- (Rupees forty thousand only) with one or two sureties to make up the said amount and P.R. Bond of like amount.
2. During the period that the Applicant is on bail, he shall report to the Jodbhavi Peth Police Station, Solapur once in fortnight.
3. The Application is allowed in above terms.

(M.S. KARNIK, J.)

(SMT. V.K. TAHILRAMANI, J.)