

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
CRIMINAL APPLICATION NO. 620 OF 2016
IN
CRIMINAL APPEAL NO. 348 OF 2016

1. Sanjay Sadashiv Ambekar	
2. Tarabai Sadashiv Ambekar	Applicants/Appellants
Versus	
The State of Maharashtra	Respondents

Mr. Aniket U. Nikam, advocate for the applicants.
Ms. S. D. Shinde, APP for the State.

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

DATE : 30th MARCH 2017.

P. C. :

Heard Mr. Nikam, learned counsel for the applicants and Ms. Shinde, learned APP for the State.

2. The applicants are convicted of the offences punishable under Sections 302 and 498A of the Indian Penal Code, 1860, and sentenced to suffer life imprisonment. The appeal preferred by them against the order of conviction is already admitted. The present criminal application is preferred for bail pending the above said appeal.

3. Applicant No.1 is the husband and applicant No.2 is the mother-in-law of the deceased. The deceased died due to burn injuries. The conviction is based on the dying declaration videographed by PW No.5. This dying declaration shows that applicant No.2- mother-in-law of the deceased poured kerosene on the person of the deceased and set her on fire and that applicant No.1 was standing nearby and slowly extinguished the fire after some time.

4. The post-mortem report shows that the deceased sustained 98% of burns and there is nothing on record to show that the deceased was in medically fit condition to give the statement. Be that as it may, it is pointed out by learned counsel for the applicants that during the investigation, statement of two independent witnesses were recorded by the investigating officer. The prosecution did not examine these witnesses and, therefore, these two persons were examined as defence witnesses. The statements of these witnesses show that when they reached at the scene of the incident, the deceased was in flames and applicant No.1 was sleeping in room No.3 and applicant No.2 had gone to attend the wedding of the daughter of one Yashwant Gavande at Chachadgaon. These two witnesses also stated that when they asked the deceased how she caught fire, the deceased told them that she got burns due to flaring of the oil lamp. Thus, there are inconsistent dying declarations about the incident in question.

5. The applicants were on bail during the pendency of the trial. They are, however, taken into custody after passing of the impugned judgment and order.

6. In the above circumstances, a case for bail is made out. We, therefore, allow the bail application on the following terms and conditions:

1. The applicants be released on bail on furnishing bail bonds in the sum of Rs.25,000/-(Rupees Twenty-Five Thousand Only) by each one of them with one or two solvent sureties in the like amount to the satisfaction of the Sessions Judge, Nashik.
2. The applicants shall attend Dindori Police Station on first Sunday and 3rd Sunday of every month during the pendency of the appeal.
3. The applicants 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.]