

Anand

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

BAIL APPLICATION NO.1249 OF 2017

Raju Indersingh Patil .Applicant

Vs.

The State of Maharashtra .Respondent

Mr.Umar Kazi, Advocate, for the Applicant
Mr.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-471 of 2016 registered with the Mahatma Phule Chowk Police Station, Thane, for the alleged offences punishable under Sections 302, 498A, 504, 506 r/w 34 of the Indian Penal Code.

3. Learned counsel for the Applicant submits that there is no material to connect the Applicant with the alleged incident which took place on 20.12.2016. He submits that the Applicant had gone for a walk

at the relevant time when his wife – Archana (deceased) sustained burn injuries. He submitted that even the dying declaration of Archana does not implicate him in any way. He further submits that none of the neighbours have disclosed in their statements that the Applicant was present in the house and have, on the contrary stated, that the Applicant had gone for a walk. He further submits that even the Applicant's daughter – Kalpita does not show the complicity of the Applicant. Learned counsel for the Applicant states that if the Applicant is released on bail, he will not claim custody of his daughter till the conclusion of the trial nor will he contact her.

4. Learned APP opposes the Application. He, however, does not dispute the fact, that the deceased has not attributed any overt act to the Applicant in the incident of 20.12.2016. He, however, submits that in the statement recorded under Section 164 of the Code of Criminal Procedure (for short 'Cr.P.C.'), the Applicant's daughter – Kalpita has stated that co-accused – Indersingh poured kerosene on her mother and the Applicant set her ablaze.

5. Perused the papers. The Applicant got married to Archana (deceased) in 2009 and the couple had two issues. According to

Archana, she was initially treated well, however, later, her in-laws and the Applicant started abusing and assaulting her. She has stated that her in-laws would instigate the Applicant, pursuant to which, he would abuse her; that she was being treated like a servant; and that she was not allowed to go close to her children. She has further alleged that she had disclosed the same to her parents, pursuant to which, her parents had tried to explain to the Applicant and in-laws. She has further stated that on 19.12.2016 at about 9.00 p.m., the Applicant and her in-laws started abusing her on account of preparation of food. She has alleged that when she questioned her in-laws, why they were behaving in this manner, her in-laws abused her. She has further stated that on 20.12.2016 at about 9.00 a.m., she was in the kitchen and was cooking food, and that her husband (Applicant) had gone for a walk. She has stated that when she was cooking on the gas, her father-in-law came from behind and poured kerosene on her person and stated that she had made the Applicant's life miserable and hence, she should be burnt alive. She has stated that as she was cooking near the gas, her clothes caught fire and she started shouting. She has further stated that thereafter, her husband and others took her to the hospital.

6. It is pertinent to note, that in the FIR, now dying

declaration, Archana has not made any allegations as against the Applicant i. e. he set her on fire. Similarly, in the statement recorded under Section 161 of the Cr.P.C., the Applicant's daughter, does not state that the Applicant set her mother ablaze. The Applicant's daughter has, however in her 164 statement alleged that the Applicant set her mother ablaze. There is inconsistency in the said statements, with regard to the presence of the Applicant in the house. The neighbours statements also show that the Applicant had gone for a walk, at the relevant time. The dying declaration and Kalpita's statement are, however, consistent with respect to the role played by Indersingh (Applicant's father) i. e. he poured kerosene on Archana.

7. Considering the material on record qua the Applicant, continued detention of the Applicant is not warranted. The Applicant is in custody since 20.12.2016. 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.25,000/-** with one or two sureties in the like amount;
- (ii) The Applicant shall not tamper with the evidence or

attempt to influence or contact the complainant, witnesses or any person concerned with the case including his daughter, who is prime witness to the said case till the conclusion of the case;

(iii) The Applicant to cooperate with the conduct of the trial.

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

9. 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.)