

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

BAIL APPLICATION NO.1978 OF 2016

Shivaji Karbhari Kuyate

... Applicant

Vs.

The State of Maharashtra

.. Respondent

Mr.K.S. Patil for the Applicant

Mr.Vinod Chate, APP, for Respondent – State

CORAM: Mrs.MRIDULA BHATKAR, J.

DATED: JANUARY 17, 2017

P.C. :

1. This application is moved for bail as the applicant/accused is prosecuted for the offences punishable under sections 302, 307, 498A, 323, 504, 506 r/w 34 of the Indian Penal Code in C.R. No.I-74 of 2015 registered at with Pimpalgaon police station, District Nashik. The applicant/accused is the husband of the deceased Pushpa Shivaji Kuyate. The complainant gave information on 30.5.2015. 14 years prior to the FIR, the deceased Pushpa got married to the applicant/accused and out of the wedlock, she delivered two daughters. Therefore, her husband i.e., the applicant/accused and her in-laws were not happy with her as she

did not give birth to a boy. Her husband wanted her to give permission for second marriage and, therefore, there was continuous quarrels and fights between the husband and wife and her in-laws and husband used to harass her. It is her case that on number of occasions, she had approached the police station and gave complaint against her husband and in-laws. On 26.5.2015 at mid-night, the applicant/accused fought with the deceased on account of giving divorce or for giving permission for second marriage. At that time, the applicant/accused assaulted her; the mother in law poured kerosene on her and the applicant/accused set her on fire. Thereafter, the applicant/accused took her to hospital and then, the offence was registered as mentioned above. Subsequently, Pushpa succumbed to the burn injuries on 3.6.2015 and so, section 302 of the Indian Penal Code was added. The applicant/accused was arrested on 30.5.2015 and hence, this bail application.

2. The learned Counsel for the applicant/accused has submitted that the applicant/accused has not committed any offence. In the beginning, the deceased gave history of accidental burns and there is variance in her two statements. He further

submitted that the dying declaration is an after-thought and the applicant/accused is innocent. He further submitted that earlier, complaints were given by the deceased to the police, however, nothing was mentioned about permission to second marriage for not giving birth to a baby boy. He submitted that the applicant/accused is falsely implicated and, therefore, he is to be granted bail.

3. Learned Prosecutor has opposed the application. He relied on the complaint so also the statements of the witnesses and the postmortem report.

4. Perused the dying declaration of Pushpa; the statement of narration of the brother of the deceased so also the postmortem notes. The postmortem notes reveal that the deceased died due to 60% burns. In the statement of Gnyaneshwar, the brother of the deceased, he has stated that Pushpa used to tell him and his mother about the harassment, abuses and physical assault for the reason that she could not deliver a baby boy. Prima facie case is made out against the accused.

5. Thus, in view of the evidence, and the reason for which she was set on fire, I am not inclined to grant bail to the applicant/accused.

6. Bail Application is rejected.

(MRIDULA BHATKAR, J.)