

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
BAIL APPLICATION NO.2193 OF 2017

Kesarbai Indersingh Patil	...Applicant
Versus	
The State of Maharashtra	...Respondent

Mr. Mohammed Umar Quazi for the applicant.
Mr. R.M.Pethe, APP for the State.
API Namdev Jadhav, M.F.C., Kalyan Dist. Thane.

CORAM: A.M. BADAR, J.
DATED: 20th NOVEMBER 2017

PC:-

1. The applicant/accused in Crime No.I-471 of 2016 registered with police station Kalyan for the offences punishable under Sections 302, 307, 498-A, 504, 506 r/w Section 34 of the Indian Penal Code, is seeking her release on bail during the pendency of the trial.

2. Heard the learned advocate appearing for the applicant/accused. He pointed out that co-accused Raju Indrasingh Patil, who is husband of the deceased is already released on bail by this Court by this Court vide order dated

08.08.2017 in Criminal Bail Application No.1249 of 2017 Court (Coram: Revati Mohite Derer,J). The learned advocate further pointed out that dying declaration has no accusing finger against the present applicant and even statement of daughter of the deceased also does not incriminate the present applicant in the crime in question.

3. The learned APP opposed the application by contending that statements of witnesses goes to show that the applicant was in the bathroom when her daughter-in-law was engulf in flames. The learned APP further argued that statement of Niraj Pandit shows that the present applicant had not assisted neighbours in extinguishing the fire, rather she informed them that there is no water in the house. She has not provided any material to extinguish the fire and therefore, with the aid of Section 34 of the Indian Penal Code, the applicant is liable for penal consequence of Section 302 of the Indian penal Code.

4. I have carefully considered the rival submissions and also perused the entire charge-sheet.

5. The crime in question is registered on the basis of statement of Archana (since deceased) initially for the offence punishable under Section 307 of the Indian Penal Code and after her death, section 302 was added to the case diary of the crime.

6. Officially recorded dying declaration of Archana, which is treated as the first information report shows that when she was cooking food in the kitchen, her father-in-law came and poured kerosene on her person and set her ablaze. The learned APP has pointed out that second dying declaration of Archana apparently recorded by the Executive Magistrate. In the Second dying declaration, Archana had disclosed the Executive Magistrate that her father-in-law poured kerosene and set her ablaze. Statement of Kalpita Patil, daughter of deceased Archana shows that it was her grand father i.e.

father-in-law of the deceased who had poured kerosene on person of the deceased and set her on fire. Statement of Kalpita further shows that at the time of the incident, the present applicant was in the bathroom . Statement of Harshal son of the deceased is not recorded by the investigator.

7. Effect of post event conduct of the applicant would have to be examined at the trial. Two officially recorded dying declarations of deceased Archana are not pointed out accusing finger at the present applicant in respect of the offence punishable under Section 302 of the Indian Penal Code.

8. In this view of the matter, considering the nature of the evidence available against the present applicant, I see no reason to deny bail to the applicant, who is mother-in-law of the deceased. Hence the following order.

ORDER

- i) The application is allowed.
- ii) The applicant/accused in Crime Crime No.I-471 of 2016 registered with police station Kalyan for the offences punishable under Sections 302, 307, 498-A, 504, 506 r/w Section 34 of the Indian Penal Code be released on bail on executing her P.R Bond of Rs. 15,000/- and on furnishing surety in the like amount.
- iii) The applicant/accused should not tamper with the prosecution evidence.
- iv) The applicant / accused shall not directly or indirectly, make any inducement, threat or promise to any person acquainted with the facts of the case, so as to dissuade him from disclosing such facts to the court or to the Police Officer.

(A.M. BADAR, J)