

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

CRIMINAL BAIL APPLICATION NO.2593 OF 2017

Mr. Sagir Munshiraza Bagwan

... Applicant

V/s.

The State of Maharashtra

... Respondent

Mr. Arshad Nehal for the Applicant.

Ms S.S. Kaushik, APP for the Respondent - State.

CORAM : A.S.GADKARI, J.

DATE : 8th DECEMBER 2017

P.C.:

. This is an application under Section 439 of Cr.P.C. for bail in C.R. No.724 of 2016 registered with Nigdi Police Station, Pune under Sections 302, 498(A), 323, 504 read with 34 of Indian Penal Code.

2. Heard the learned Counsel for the applicant and the learned APP. Perused the charge-sheet.

3. It is the prosecution case that, the applicant and his family members

used to harass on casual cruelty to deceased Smt. Rubina i.e. the wife of applicant on various grounds. That, on the date of incident i.e. on 14.10.2016, it is alleged that the accused-person committed murder of Rubina by pouring kerosene on her and ignited it. Rubina died in hospital while taking treatment on 18.10.2016 at about 5.00 a.m. The first information report is lodged by Smt. Madina, mother of deceased Rubina on 22.10.2016. It is stated in the said FIR that, when Rubina was taking treatment in hospital, she disclosed to her that on the count of filling of water from Public Water Tap, there were quarrels between her and her in-laws, and therefore, accused-person poured kerosene on her person and thereafter ignited it. During the course of investigation, the applicant came to be arrested on 22.10.2016 and after completion of investigation, police have submitted charge-sheet.

4. The record indicates that after Rubina was admitted in hospital on 14.10.2016, a statement has been recorded by the concerned police. The Medical Officer has given an endorsement before recording of the said statement that, Rubina was in a conscious state of mind to give a statement. In her statement on 14.10.2016 which is treated as dying declaration, Rubina has stated that while preparing tea, her cloths caught fire as they

were in the proximity of the stove. Her brother-in-law, namely Rizwan was present in the house. He immediately poured water on her person. She has further submitted that her brother-in-law then called her husband (Applicant) and thereafter, she was admitted in hospital.

5. After perusing the material available on record, prima-facie it appears that, there is no material on record to indicate that the applicant was present in the house at the time of said incident. As stated earlier, the deceased in her dying declaration has stated that after the incident, her brother-in-law Rizwan called her husband, who was not present in the house.

6. In view thereof, the applicant can be released on bail.

Hence, the following Order:

(I) The applicant be released on bail in C.R.No.724 of 2016 registered with Nigdi Police Station, Pune, on his furnishing PR Bond in the sum of Rs.25,000/- with one or two solvent local sureties in the like amount.

(ii) After his release from the jail, the applicant shall attend the concerned Police Station on every alternate Monday between 10.00 a.m. to 12.00 noon for a period of six months and thereafter on 1st Monday of

every month till conclusion of trial.

(iii) Applicant shall also attend all dates before the Trial Court.

(iv) Applicant shall not tamper with the evidence and/or influence the prosecution witnesses.

7. Application is allowed in the aforesaid terms.

(A.S.GADKARI, J.)