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

BAIL APPLICATION NO. 2646 OF 2017

Anand Bhimrao Waghmare & Anr. ... Applicants

V/s.

The State of Maharashtra ... Respondent

Mr. Ritesh Thobde for Applicant.

Mr. Vinod Chate, APP for the Respondent/State.

CORAM : A.S.GADKARI, J.

DATE : 6th DECEMBER 2017

P.C.:

1] This is an application under Section 439 of Cr. P.C. for bail in CR No. 141 of 2017 dated 27.4.2017 registered with Vairag Police Station, District- Solapur under Sections 302, 498A, 504 r/w 34 of the Indian Penal Code.

2] Heard the learned Counsel for the applicants and the learned APP. Perused the chargesheet.

3] Applicant No.1 is the husband and the applicant No.2 is the brother-in-law of the deceased Smt. Jija Waghmare. It is the prosecution case that, the applicant No.1 Anand was addicted to liquor and used to demand money from his wife i.e. deceased Smt. Jija. That applicants and

their mother used to harass and torture deceased Smt. Jija on account that she gave birth to daughters only. That on 26.4.2017 there was a quarrel between the applicant No.1 and Smt. Jija and in the said quarrel, the applicant No.1 poured kerosene on her person and ignited it. Smt. Jija was admitted to the hospital where she succumbed to injuries on 1.5.2017. The statement of Smt. Jija is treated as F.I.R. A dying declaration has been recorded by Shri M.A. Pawar, Police Inspector attached to Vairag Police Station, District-Solapur. During the course of investigation, the applicants came to be arrested on 27.4.2017. After completion of investigation, police have submitted chargesheet.

4] In the first information report dated 27.4.2017 which is treated as dying declaration, it is stated by Smt. Jija that the applicant No.1 came to house on 26.4.2017 after drinking liquor and there was a quarrel between the applicant No.1 and the deceased Smt. Jija. Applicant No.1 thereafter poured kerosene on her person and ignited it. It is seen from the second dying declaration that while answering question No.12, the victim has stated that after the quarrel with her husband, in feat of rage she herself poured kerosene on her person and ignited it. However, at the later stage in the dying declaration she has stated that after the said quarrel, the

applicant No.2 i.e. her brother-in-law questioned her as to why she is fighting with her brother and slapped her and poured kerosene on her person and ignited it. The statements of the victim Smt. Jija are recorded when she was conscious and well-oriented. The Medical Officer has given certificate to that effect.

5] In view of the material variance in the said two dying declarations, the applicants can be released on bail.

Hence, the following Order:

(i) The applicant be released on bail in CR No. 141 of 2017 registered with Vairag Police Station, Solapur on their furnishing PR bond of Rs.25,000/- each with one or two separate solvent local sureties in the like amount.

(ii) After their release from jail, the applicants shall attend the concerned Police Station on 1st Monday of every month between 10.00 a.m. to 1.00 p.m.

(iii) Applicants shall not tamper with the evidence and/or influence the prosecution witnesses.

6] Application is allowed in the aforesaid terms.

(A.S.GADKARI, J.)