

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

BAIL APPLICATION NO. 2603 OF 2016

Anil Bajilal Chauhan.	...	Applicant
Vs.		
The State of Maharashtra	...	Respondent

Mr. Niranjan Mundargi i/b. Mr. Kunal D. Ambulkar, Advocate for the applicant.

Ms. J.S. Lohakare, APP for the State.

**CORAM: SMT.SADHANA S.JADHAV,J.
DATE : JANUARY 4, 2017.**

P.C.

1 Heard the learned counsel for the applicant and the learned APP for State. Perused papers.

2 This is an application under Section 439 of the Code of Criminal Procedure, 1973. The applicant herein is arrested on 16/6/2016 in Crime No. 119 of 2016 registered at Boisar Police Station for the offence punishable under section 306, 498A read with Section 34 of the Indian

Penal Code.

3 It is the case of the prosecution that the applicant was married to Sandhya on 1/5/2013. The couple was blessed with a son. On 21/5/2016 Sandhya was admitted in the hospital as she had sustained burn injuries. It appeared that it was a medico legal case and therefore, statement of Sandhya was recorded by the P.I. of Boisar Police Station in the hospital in the presence of Social Worker. Sandhya had disclosed to the police that there used to be quarrels between her and her husband and that her husband was in habit of abusing and assaulting her. She has further disclosed that on the date of the incident i.e. on 21/5/2016 there was a quarrel between the husband and wife. She was fed up with the frequent quarrels. She has further disclosed that at the time of incident, her husband was in another room and she had poured kerosene on herself and had immolated herself, since she could not tolerate wreck of her husband.

4 It is pertinent to note that no offence was registered by the API of Boisar Police Station on the basis of the statement of the injured.

Sandhya had succumbed to burn injuries on 23/5/2016. On 16/6/2016 the father of Sandhya lodged the report at the police station alleging therein that there used to be quarrel between the husband and wife. On 21/5/2016 one Meena Singh had informed him that Sandhya had sustained burn injuries as she had immolated herself and that she was admitted in the hospital. He had requested his relatives to meet Sandhya and verify the information received by him. He had learnt that she is taken to Valsad Civil Hospital. She has disclosed to the relatives that she was harassed by her husband as he was suspecting her character and therefore, she has immolated herself.

5 Upon perusal of the dying declaration dated 21/5/2016, it is clear that Sandhya was being harassed and ill-treated by the applicant on various counts. It cannot be said that the applicant had facilitated or abetted commission of the suicide. The applicant would be liable for offence punishable under Section 498A of the Indian Penal Code. The learned Counsel for the applicant submits that the applicant would be at the most liable for the offence under section 498A of the Indian Penal Code.

6 Taking into consideration, the role attributed to the applicant, compilation of the charge-sheet, this Court is of the opinion that the applicant deserves to be enlarged on bail.

7 The learned APP submits that the applicant is the original resident of State of Uttar Pradesh and may not be available for trial and hence, he does not deserve to be enlarged on bail. The applicant can be enlarged on bail by imposing certain stringent conditions.

8 However, it is made clear that the observations made herein above are prima facie in nature and are restricted to the application under section 439 of the Code of Criminal Procedure, 1973. The observations shall not be taken into consideration for for quashing of FIR or discharge application or at the time of trial.

9 Hence, the following order is passed :

ORDER

- (i) The application is allowed.
- (ii) The applicant be enlarged on bail on furnishing P.R. Bond in the sum of Rs. 50,000/- and one or more local solvent sureties in the like amount.
- (iii) The applicant shall report to Boisar Police Station on 1st and 3rd Sunday of each month between 10.30 a.m. to 12 noon till framing of charge.
- (iv) The applicant shall not leave jurisdiction of Mumbai, Thane and Palghar without prior permission of the Court.
- 10 The application is disposed of accordingly.

(SMT.SADHANA S.JADHAV, J.)