

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
NAGPUR BENCH, NAGPUR.

CRIMINAL APPLICATION (BA) NO.952 OF 2017

1. Kalpana Vinod Udaykar,
2. Radha Uddhav Bhoje, R/o Balkheda, Tq. Risod, Dist. Washim

-vs-

State of Maharashtra, Thr. PSO, PS Risod, Tq. Risod, Dist. Washim

Office notes, Office Memoranda of
Coram, appearances, Court's orders
or directions and Registrar's orders.

Court's or Judge's Orders.

Shri S. G. Bundele, Advocate for applicants.
Shri S. M. Ghodeswar, APP for non-applicant/State.

CORAM : A.S.CHANDURKAR, J.
DATE : November 02, 2017

The applicants have been arrested in connection with Crime No.145/2017 registered with Police Station Risod, Dist. Washim for the offence punishable under Sections 307, 302, 498-A, 506 read with Section 34 of IPC. Hence they seek their release on bail.

As per the First Information Report dated 29/05/2017 one Rekha Bhoje was brought in a burnt condition at the hospital where her statement was recorded. In that statement she stated that on 24/05/2017 in the morning when she was asleep, her husband, her in-laws as well as her sister-in-law poured kerosene on her body and set her on fire. She awoke due to said incident. Her mother-in-law tried to extinguish the fire and in this process she also suffered some burns. On this basis offence punishable under Section 307 IPC came to registered. The investigation was carried out. Said Rekha

succumbed to her burn injuries on 01/06/2017. Present applicants were arrested on 03/08/2017.

It is submitted on behalf of the applicants who are the sister in law as well as mother in law respectively of the deceased that after the incident, the statement of the victim was recorded on 24/05/2017. In that statement she did not implicate any of the family members and stated that she had no grievance against anybody. According to learned counsel the victim was then shifted to the hospital at Aurangabad on 26/05/2017. Another dying declaration came to recorded in which all the accused were implicated. According to learned counsel this statement was recorded in presence of relatives of the victim. It is then submitted that on completion of investigation the charge-sheet has been filed on 24/08/2017. As per the hospital papers where the victim was first admitted, it was noted that the said patient was not remembering the details as to the manner in which she was burnt. Though statement of the neighbour has been recorded on 30/05/2017, he did not lodge any report immediately after the incident. It is therefore submitted that in these facts, the applicants are entitled to be enlarged on bail.

The application is opposed by the learned Additional Public Prosecutor by relying upon the reply. It is submitted that the victim has explained as to why the accused were not named in the first dying declaration. On account of threats given by he husband she did not name anybody in the first dying declaration. The applicant No.2-mother in law suffered

burn injuries in the process which indicated that she was present when the incident took place. In view of the clear implication of all the relatives in second dying declaration and considering the seriousness of the offence, the applicants do not deserve to be enlarged on bail.

Perused the documents filed along with the charge-sheet. The first dying declaration has been recorded on the same day when the victim suffered burn injuries. In that statement no family member has been implicated. At that point the victim was admitted at Ekvira Hospital and the medical case papers referred to her statement that she could not recollect the manner in which the injuries were caused. The second dying declaration is recorded on 26/05/2017. Though the applicants have been implicated in this dying declaration, the report in question is forwarded only on 28/05/2017 and the first information report is of 29/05/2017. The delay is of more than two days which prima facie does not appear to have been explained. The statement of the neighbour has been recorded on 30/05/2017 and even said neighbour did not lodge any report though according to him the victim has stated that the applicants and other family members had set her on fire.

Considering the aforesaid facts and two dying declarations on record coupled with the fact that charge-sheet has now been filed after completion of investigation, I find the case has been made out for releasing the applicants on bail.

In view of aforesaid, the applicants who have been arrested in connection with Crime No.145/2017 registered with Police Station Risod, Dist. Washim for the offence punishable under Sections 307, 302, 498-A, 506 read with Section 34 of IPC are directed to be released on bail on furnishing PR Bond of Rs.20,000/- (Rupees Twenty Thousand) each with one surety each in the like amount.

The applicants shall attend the concerned police station as per the directions of the Investigating Officer.

The applicants shall co-operate in completion of the trial and shall not take any steps to influence the prosecution witnesses.

By clarifying that the observations made in this order are only for deciding the present application, the same is allowed and disposed of.

JUDGE