

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

CRIMINAL APPLICATION (BA) NO.1023 OF 2016

Anita w/o Datta Vaykule

..VS..

State of Maharashtra, through its P.S.O., Police Station Bittargaon, Tahsil
Umarkhed, District Yavatmal

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

Court's or Judge's Order

Shri V.N. Patre, Counsel for the applicant.

Shri Anand Deshpande, Addll.P.P. for the non-applicant.

CORAM : P.N. DESHMUKH, J.

DATED : JANUARY 23, 2017.

Heard.

One of co-accused, involved in Crime No.88 of 2015 initially registered under Sections 307 and 452 read with Section 34 of the Indian Penal Code wherein offence punishable under Section 302 of the Indian Penal Code came to be subsequently added on death of deceased, has filed application for bail.

Learned counsel for the applicant has submitted that there are two dyeing declarations of deceased which are inconsistent with each other on material aspects and has contended that co-accused Bhagwan and Rani who are similarly placed are released on bail by this Court. It is, therefore, prayed that as there is no other evidence on record except for two dyeing declarations which are inconsistent and as

co-accused are already released on bail, application be allowed on merits as well as on parity.

Learned Additional Public Prosecutor has opposed the application as per reply on record and has contended that though there are two dyeing declarations, there are no material discrepancies therein and role attributed to applicant is very specific of she holding hands of deceased while her husband pouring kerosene and setting deceased on fire. Learned Additional Public Prosecutor, however, has not disputed fact of release of co-accused Bhagwan and Rani on bail by this Court and that there are no eyewitnesses to the incident.

Perused the case diary. It is noted that applicant and co-accused are neighbours of deceased Kavita Parate and on 23.10.2015 quarrel took place between them on account of killing of chicken as dead chicken belonging to Sangita was found in front of house of deceased Kavita which fact was informed by deceased Kavita to Sangita stating that applicant and her brother had killed her chicken and, therefore, quarrel took place wherein applicant's husband Datta who poured kerosene on Kavita while Rani and Anita caught hold her hands due to which she sustained burnt injuries.

From the case diary it is noted that on admitting deceased initially to Government hospital at

Nanded her statement is recorded on 23.10.2015 at 6:31 a.m. wherein she has stated that applicant and her family members including Rani and Bhagwan indulged in quarrel with her where applicant and Rani caught hold of her hands when applicant's husband poured kerosene and set her person on fire. As per statement, role attributed to co-accused Bhagwan is of abusing deceased.

Thereafter, on 27.10.2015 while she was admitted in a Government hospital at Yavatmala, her subsequent statement came to be recorded wherein she has stated about incident dated 23.10.2015 when quarrel took place between Sangita, applicant on the count of killing of chicken and on the point of incident has stated that while she was alone in the house, applicant, co-accused Bhagwan, Datta, and applicant's married daughter Rani indulged into quarrel with her saying that why she disclosed that applicant and her family members had killed Sangita's chicken and on that count Datta poured kerosene on her person while applicant, Rani, and Bhagwan caught hold of her and Datta set her person on fire.

Considering contents of both these statements, there appears inconsistency with regard to Bhagwan as in the first dyeing declaration he is stated to have abused deceased while in subsequent dyeing declaration he stated to have caught hold of her with

Rani as well as applicant. Admittedly, Rani and Bhagwan, who are attributed with similar role as that of applicant, are released on bail by this Court as well as by the Trial Court.

Having considered facts as aforesaid and as from the statement of Gajanan and Bebabai, who are named in subsequent dyeing declaration also do not establish involvement of applicant in any manner, application is liable to be allowed. Hence, the following order :

Applicant shall be released on bail on her executing P.R. Bond in the sum of Rs.20,000/- with one solvent surety in the like amount.

While on bail, applicant shall mark her presence with Bittargaon Police Station, Tahsil Umarkhed, District Yavatmal quarterly on the first day of each such month between 10:00 a.m. to 12:00 p.m., pending trial.

JUDGE

!! BRW !!

C E R T I F I C A T E

I certify that this Order/Judgment uploaded is a true and correct copy of original signed Order.

Uploaded by : Bhushan R.Wankhede.
(Personal Assistant)

Uploaded on :- 24/1/2017