

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

CRIMINAL APPLICATION (BA) NO.1034 OF 2016

Amol S/o Dnyanba Bangar and anr

..VS..

State of Maharashtra, through Police Station Officer Police Station Washim
(Rural), Tahsil and District Washim

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

Court's or Judge's Order

Shri A.P. Tathod, counsel for the applicants.

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

CORAM : P.N. DESHMUKH, J.

DATED : FEBRUARY 17, 2017.

Applicants, being husband and mother-in-law of deceased Aarti involved in Crime No.170 of 2016 registered under Sections 498-A, 302, 304-B, 307, 52(A), and 212 read with Section 34 of the Indian Penal Code, have filed this application for bail.

Heard learned counsel for the applicants and learned Additional Public Prosecutor for the non-applicant/State.

Learned counsel for the applicants has submitted that applicants are falsely implicated in subsequent dyeing declaration recorded on 22.7.2016 as according to the first dyeing declaration dated 17.7.2016, deceased had stated to have sustained burn injury while she was preparing tea due to bursting of stove. It is, therefore, contended that in view of

inconsistent dyeing declarations on record, applicants are entitled for bail.

Learned Additional Public Prosecutor has opposed the application as per its reply on record and submitted that contents of the dyeing declaration dated 22.7.2016 are corroborated by the statement of independent witness Rahul who is referred as Mistri in said dyeing declaration and has submitted that from this eyewitness involvement of applicants to have poured kerosene on the person of deceased and to have set her on fire is clearly established. It is, therefore, submitted that application be rejected.

In view of the statements as aforesaid, it is found that after the incident, first statement of Aarti came to be recorded at Government Hospital, Washim on 17.7.2016 wherein she in clear terms has stated that at 5:00 to 5:30 p.m. when she was preparing snacks (maggi) on stove, it bursted due to blast she sustained fire injuries. It is in that stated that applicant No.1 husband extinguished fire and both applicants by arranging private vehicle admitted her in hospital.

From the hospital at Washim, Aarti is referred to hospital at Nashik where on 22.7.2016 her statement is recorded by the executive magistrate where she has implicated both applicants to have poured kerosene on her person and set her person on fire. In this statement there is reference of one Mistry to whom

deceased stated to have served tea with applicant No.1. Learned Additional Public Prosecution by referring to statement of one Rahul has submitted that he is the same person referred as Mistry in subsequent dyeing declaration and has submitted that from his statement dyeing declaration is fully corroborated. However, it is material to note that according to the first dyeing declaration, deceased claimed that she sustained burn injuries accidentally while preparing snacks (maggi) while in subsequent dyeing recorded after five days she involved applicants to have set her person on fire and referred to one Mistry to whom she claims to have served tea along with applicant No.1. She has also stated that while she was preparing tea, applicants poured kerosene and set her on fire. The contents of subsequent dyeing declaration as such are inconsistent even to deceased preparing tea as stated subsequently. Moreover, statement of Rahul is recorded on 1.8.2016 no satisfactory explanation is found on record for immediately recording her statement in spite of reference having made by deceased in her dyeing declaration.

In view of facts as aforesaid and as investigation is complete, considering material inconsistencies in the dyeing declarations, application is liable to be allowed as there is no purpose to keep applicants behind bars. Hence, the following order:

Applicants shall be released on bail on their executing P.R. Bonds in the sum of Rs.15,000/- each with one surety each in the like amount.

While on bail, applicants shall mark presence with Washim Police Station (Rural), District Washim on first day of each month, pending Trial.

Applicants shall submit proof of their residence with investigating officer and shall update the same in the event of change in future.

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 :- 20/2/2017