

IN THE HIGH COURT OF JUDICATURE AT BOMBAY

BENCH AT AURANGABAD

CRIMINAL APPEAL NO.429 OF 2013

Bapu (Nandu) Prabhu Koli @ Raut,
Age-36 years, Occu:Labour,
R/o-Khed, At present Kakramba,
Tq-Tuljapur, Dist-Osmanabad.

...APPELLANT

VERSUS

The State of Maharashtra,
Through Tuljapur Police Station,
Tq-Tuljapur, Dist-Osmanabad.

...RESPONDENT

...

Mr.Avishar S. Shelke Advocate appointed for
Appellant.

Mr.K.S. Hoke Patil, A.P.P. for Respondent.

...

**CORAM: S.S. SHINDE AND
V.K. JADHAV, JJ.**

DATE OF RESERVING JUDGMENT : 12TH JULY, 2018.

DATE OF PRONOUNCING JUDGMENT: 23RD JULY, 2018.

JUDGMENT [PER S.S. SHINDE, J.] :

1. This Appeal is directed against the

Judgment and order dated 26th July, 2013, passed by the Sessions Judge, Osmanabad in Sessions Case No.52 of 2012, thereby convicting the accused/Appellant - Bapu (Nandu) Prabhu Koli @ Raut for the offence punishable under Section 302 of the Indian Penal Code (for short "I.P. Code") and sentencing him to suffer imprisonment for life and to pay fine of Rs.10,000/- (Rupees Ten Thousand only), and in default of payment of fine, to suffer rigorous imprisonment for a year.

2. The prosecution case, in brief, is as under:

A) Deceased Varsha Bapu Koli was wife of the accused who died on 4th February, 2012. Varsha died due to burn injuries in a civil hospital, Osmanabad. She sustained burn injuries to the extent of 88%, on 24th January, 2012 at 9.30 p.m.

B) The deceased and accused belong to labour

class. Both were doing labour work for daily wages, on a brick-kiln. They are having children. One Manoj Ghogare is owner of the brick-kiln, which is about 1 K.M. away from Kakramba village. Said Manoj Ghogre appears to have made arrangements for resident of the labourers near the kiln. About 30 hutment like structures of bricks, covered with tins having open Varanda in front of each room, have been provided to the workers for their residence. In a third room from South side, accused and his wife along with children, were residing and other labours were residing in other rooms. This residential place of the deceased is a place of incident.

C) The place of incident at Kakramba is in Tuljapur police station area. On 24th January, 2012 a lady patient was taken to civil hospital, Tuljapur, for treatment of burn injuries. Immediately, she was referred to civil hospital, Osmanabad. Police officer of Tuljapur police

station made a request to Osmanabad (City) police station for recording statement of the patient. Police Naik on duty at the police chowki of civil hospital, Osmanabad was instructed to record the statement of the patient, so admitted in civil hospital, Osmanabad.

D) Police Naik Fulari (PW-3) was on duty in the police chowki in civil hospital, Osmanabad. He contacted Dr. Sable (PW-4), on duty and requested him to show the patient and to accompany with him. They both went to burns ward. The wife of the accused was admitted there. On 25th January, 2012, between 2.00 a.m. to 2.30 a.m., Police Naik Fulari recorded a statement of the deceased in a printed proforma used for recording of a dying declaration. He handed over statement to Osmanabad (City) police station. Osmanabad City police station transmitted the same to police station, Tuljapur.

E) The patient died on 4th February, 2012. Osmanabad city police conducted usual A.D. enquiry under Section 174 of the Code of Criminal Procedure (for short "Cr.P.C."). An inquest panchnama (Exhibit-20) prepared and postmortem (Exhibit-27) conducted. The dying declaration was sent to Tuljapur police station, disclosing the commission of cognizable offences, therefore police took cognizance to register crime against accused. A.P.I. Sable (PW-6) investigated into the offences.

F) A.P.I. Sable conducted the spot panchnama (Exhibit-15). He arrested the accused and collected 174 Cr.P.C. inquiry papers. Muddemal seized was sent to C.A. examination. In due course he received C.A. report. During investigation, he contacted the persons supposed to be acquainted with the facts of the case to record their statements. He finally submitted a charge-sheet against the accused in the Court of J.M.F.C.,

Tuljapur. Dying declaration itself disclosed that, accused subjected the deceased, being his wife, to cruelty and beat her upon suspecting her character and finally on 24th January, 2012, at 9.00 p.m. poured kerosene on her person and set her ablaze. In due course, learned J.M.F.C. committed the case to the Court of Sessions.

G) A charge was framed against the accused. At the time of framing of charge, substance of accusation was read over and explained to the accused. Accused pleaded not guilty and claimed to be tried, with the defence of total denial.

3. After recording the evidence and conducting full fledged trial, the trial Court convicted the accused for the offence punishable under Section 302 of the I.P. Code and sentenced him to suffer imprisonment for life and to pay a fine, as afore-stated. Hence this Appeal by the accused.

4. Heard learned counsel appearing for the Appellant and learned A.P.P. appearing for the State, at length. With their able assistance, we have carefully perused the entire notes of evidence, so as to find out whether the findings recorded by the trial Court are in consonance with the evidence brought on record or otherwise.

5. The prosecution has examined in all six witnesses. PW-1 Datta Uttam Bansode, is a neighbour of the accused, who turned hostile and did not support the prosecution case. PW-2 Satish Dattatraya Pawar is a panch to the seizure panchnama (Exhibit-27) regarding the seizure of sweater on the person of accused. PW-3 Rajesab Akbarsab Fulari, is the police head constable, who recorded the dying declaration Exhibit-23. PW-4 Dr. Bhaskar Mahadeo Sabale is the medical officer who has put an endorsement regarding the consciousness of the patient, before and after

recording the dying declaration. PW-4 Dr. Bhaskar Sabale has also carried out post-mortem on the dead body of Varsha. PW-5 Bhimrao Maruti Gadhave is a carrier who carried the muddemal articles to the office of the Chemical Analyzer. PW-6 Suresh Namdeorao Sabale is the investigating officer, who deposed about the manner in which he has carried out the investigation.

6. First of all, we will examine the oral evidence of PW-3 Rajesab Akbarsab Fulari, Police Naik, who has recorded the dying declaration Exhibit-23. He deposed that in the month of January, 2012, he was attached to city police station, Osmanabad. He was on duty as Police Chowki Amaldar on 24th January, 2012, in the civil hospital, Osmanabad. Police station officer of city police station, Osmanabad telephonically informed him at about 1.00 O'clock during intervening night of 24th January, 2012 to 25th January, 2012, that a woman namely Varsha Bapu

Koli of village Kakramba has been admitted in civil hospital, Osmanabad in burn-injured condition to the extent of 80% burn and he should see her and record her statement and send it to Tuljapur police station. He collected a printed form from the Chowki. Duty medical officer was Dr. B.N. Sable. He went to Dr. Sable and informed him about the admission of said patient and her location and asked Dr. Sable that he wanted to take her statement. Dr. Sable told that she was admitted in burn ward. He requested Dr. Sable to accompany him and accordingly Dr. Sable accompanied him. They both went to burn ward. He saw that patient was in burn condition. There were relatives of the said patient near her. He asked the relatives to go out side. He also requested the doctor to certify whether the patient was in a position to give statement. Doctor examined the patient and told him that she was in a position to give statement, and accordingly endorsed on the upper side of the proforma form. He then proceeded

to record her statement. He asked her name, she told her name to be Varsha Bapu Koli, resident of Kakramba. As per the form questionnaire, he asked her questions and she gave answers. Accordingly he reduced it into writing. Varsha told him during the course of declaration that her husband was harassing her and beating her as he was suspecting about her character. On 24th January, 2012, at about 9.00 p.m. when she woke up for nature's call, her husband poured kerosene on her person and set her on fire, thereby she got burn injuries on whole of the body. She also told him that after making hue and cry, the neighbouring persons extinguished the fire by pouring water and she was admitted in the hospital by her brother and mother. The statement accordingly has been reduced into writing, as per her narration. It was read over to her. He asked Varsha to put her right hand thumb impression on it. She accepted the contents to be true. He again requested doctor to examine the patient whether she consciously gave

statement. Doctor examined the patient and accordingly endorsed that she was conscious during the course of recording the statement. The witness thereupon put his signature on the statement. The dying declaration is at Exhibit-23. He send the dying declaration along with the report (Exhibit-24) to police station, Osmanabad (city). He also informed the Special Executive Magistrate by letter, to record the dying declaration of said patient. The counter part of the letter is at Exhibit-25.

7. During the course of cross-examination, PW-3 Rajesab Fulari stated that the police chowki in the civil hospital situates near the entrance gate of civil hospital. The burn or injured patients if admitted in hospital, MLC entry is made in the Chowki. Such MLC entry was not taken in respect of this patient in the police chowki. The format used for taking dying declaration is kept in chowki, and the same is printed in the

name of Special Executive Magistrate, namely, Bansode Manik Sakahhari. He further stated that dying declaration is in his handwriting. Dr. Sable was sitting in DMO office, which is on the ground floor of the hospital. He did not request in writing to doctor Sable. The burn ward is on the ground floor in the back side. He did not know who was medical officer on duty in the burn ward and whether any medical officer was on duty in the burn ward. He did not know how many patients were admitted in the burn ward during night of 24th and 25th January, 2012. He has not mentioned in the statement as to whether the thumb impression is of leg or hand. He has not obtained stamp of the hospital below the signature of the doctor. The patient was crying due to pains because of burn injuries. Saline was administered to her. He went to Dr. Sable at about 1.45 midnight. They reached burn ward within five minutes. Doctor examined patient for about five minutes. Previously also he has recorded about 10 to 20

dying declarations. He has sent the dying declaration of the patient to city police station to send it to Tuljapur police station. He has sent the dying declaration in original.

8. Thus, it is clear from perusal of the evidence of PW-3 Rajesab Fulare that he recorded the dying declaration Exhibit-23. He has specifically deposed that Varsha stated that on 24th January, 2012, at about 9.00 p.m., when she woke up for nature's call, her husband poured kerosene on her person and set her on fire. We have carefully perused dying declaration Exhibit-23. About the main incident, it is written in the dying declaration that, Varsha was sleeping in her house. At about 9.00 p.m. she started to go out of the house for attending nature's call. At that time her husband Bapu Koli @ Raut has poured kerosene on her person and set her ablaze by igniting match stick.

9. The prosecution has examined PW-4 Dr. Bhaskar Mahadeo Sabale. He deposed that since 2004 he was working as medical officer in civil hospital, Osmanabad. On 24th January, 2012 he was in the hospital on night DMO duty, from 9.00 p.m. to 8.00 a.m. in the morning of next day. Patient Varsha Bapu Koli was admitted in the hospital. She was referred from Tuljapur Rural Health Center. It was a burnt case and therefore she was admitted in burn ward. He asked the history to the patient and she stated that, she herself poured kerosene on her body and her husband set her on fire at 9.35 p.m., on the same day. At about 1.45 a.m., Police Chowki Amaldar came to him for recording her dying declaration. He has shown him the patient. The relatives of the patient were directed to wait outside the burn ward. PW-4 Dr. Bhaskar Sable further deposed that he examined the patient on the request of police personnel. Patient was conscious and oriented. He certified accordingly on the top of the printed form of the dying

declaration. The endorsement was shown to him and he identified the same. He further deposed that the police officer then asked the questions as per the proforma. Patient answered and the police officer took down the answers on the proforma. Accordingly, dying declaration of Varsha was recorded in his presence. It was read over to the patient. Again police officer requested him to certify whether the patient was conscious. He certified, after examination, that she was conscious. He again made endorsement on the lower part of overleaf of the proforma. He has identified his endorsements and signatures. He further deposed that at the time of recording the dying declaration (Exhibit-23), he himself, police officer and patient were only present. The patient expired on 4th February, 2012. Medical officer on duty informed him for conducting post-mortem. Head constable Kolangade brought the dead body in post-mortem room along with inquest panchnama, letter and report. Request was made to make a post-mortem

for ascertaining exact cause of death. He himself and Dr. Gilbile conducted post-mortem on 4th February, 2012, between 9.15 a.m. to 10.15 a.m. The dead body was of female of 25 years. He has recorded the injuries in Column No.17 of post-mortem report accordingly. The cause of death was "shock due to 88% superficial to deep burn". He has accordingly filled up the post-mortem report in his handwriting. The post-mortem report Exhibit-27 bears his signature and signature of Dr. Gilbile and stamp of the hospital. He further deposed that the contents of post-mortem report are correct. The injuries mentioned in Column No.17 are sufficient to cause death.

10. During the course of cross-examination, PW-4 Dr. Bhaskar Sabale stated that there is no seal of the hospital or registration number below his signature on the upper part of the dying declaration Exhibit-23. There is no endorsement regarding MLC recorded in dying declaration. He

did not remember the name of doctor who was on duty, on call in the burn ward on that day. He did not remember whether medical officer on call duty was present or not when he went in the burn ward on that day. He further stated that immediately after police officer came to him, they went to burn ward. He inquired with patient orally about her name, age, village, for understanding the consciousness, and recorded her pulse rate to see whether she was oriented and conscious. He denied the suggestion that sedative medicines were administered to patient to relieve her from pains and that the patient was subconscious because of sedative medicines. He further stated that there were other admitted patients in the burn wards on that day. Police officer did not give his request for taking dying declaration in writing. In case of superficial to deep burn there is loss of fluid. He admits that nerve ends are destroyed because of loss of fluid in the case of burn injuries. He further admits that rule of 9 O'clock

is applied to the dead body. Face, chest, neck, stomach have been damaged due to burn injuries. He has not done the test to see potency of vocal sac medically. He is not burn expert doctor. He has not completed any burn expert diploma. He is ready to produce papers regarding history told by patient at the time of admission. He further stated that he did not remember whether thumb impression of hand or leg of that lady was obtained on dying declaration.

11. It is significant to note that PW-4 Dr. Bhaskar Sable has deposed that patient Varsha Bapu Koli was admitted in the hospital and he asked the history to the patient. He has further stated in clear terms, that Varsha told history that she herself poured kerosene on her person and her husband set her on fire at 9.35 p.m. on 24th January, 2012. Admittedly, Varsha died due to burn injuries. PW-3 Rajesab Fulari and PW-4 Dr. Bhaskar Sable are the only star witnesses of the

prosecution. The entire prosecution case rests upon the sole dying declaration recorded by PW-3 Rajesab Fulari, Police Naik. It is the prosecution story that accused poured kerosene on the person of Varsha and set her on fire. However, the medical officer who has immediately attended Varsha when she was admitted in the hospital, has stated in clear words, that patient told him the history that she herself poured kerosene on her person and her husband set her on fire. Except the dying declaration Exhibit-23, the prosecution has not brought on record any other dying declaration. It is note the case of the prosecution that Varsha has given oral dying declaration to her relatives. The entire prosecution case revolves around the dying declaration Exhibit-23. There is material variance in the core of the prosecution case. The contents of the dying declaration Exhibit-23 shows that Varsha has stated that her husband poured kerosene on her person and set her on fire. However, as observed earlier, the medical officer

PW-4 Dr. Bhaskar Sable has stated in clear words that patient told him the history that she herself poured kerosene on her person and her husband set her on fire. There is no other evidence corroborating the dying declaration Exhibit-23. When there is material variance in the dying declaration and the history recorded by the medical officer when the patient was admitted in the hospital, it is unsafe to rely upon such sole dying declaration and convict the accused, when the dying declaration is not at all corroborated by any other evidence. It is stated by Varsha in his dying declaration that after receiving burn injuries, she started shouting. Upon hearing her shouts, the neighbours came there and then they extinguished the fire by sprinkling water on her person. She further stated that her brother and mother shifted her to the hospital. It is pertinent to note that the prosecution has not examined any neighbour of Varsha, who immediately after the incident, visited the house of Varsha

and tried to extinguish the fire. The only neighbour examined by the prosecution is PW-1 Datta Uttam Bansode, but he turned hostile and did not support the prosecution case. The prosecution has not examined brother or mother of the deceased, according to Varsha, who shifted her in the hospital. PW-3 Rajesab Fulari has deposed in his examination-in-chief that he informed the Special Executive Magistrate by letter to record the dying declaration of Varsha. However, for the best reasons known to it, the prosecution has not brought on record another dying declaration recorded by the Special Executive Magistrate. Thus, the prosecution has suppressed material document of dying declaration.

12. In the case of Abdul Riyaz Abdul Bashir vs. State of Maharashtra¹, the Division Bench of the Bombay High Court, Bench at Nagpur, observed in Para-12 as under:

¹ 2012 All M.R.(Cri) 2188

" In these circumstances, it becomes clear that the prosecution has suppressed another dying declaration deliberately. It was neither produced on record and nor the witnesses have stated that the statement of the deceased was recorded on two occasions. The very fact that the investigating officer has proved the omissions elicited in the statement of the witnesses, it is clear that till 19.1.2005 none of the witnesses had disclosed to the police that the deceased had made an oral dying declaration before them implicating the accused for being responsible for her death".

. In Para-13 of the Judgment, the Division Bench further observed that:

"The evidence of PW1 would show that soon after the incident, she has seen the appellant taking Nargis to the Hospital. The dying declaration will have to be read as a whole. It cannot be divided into two different parts. The integral part of the dying declaration is based upon the periphery of the statement and the

contents are neither coherent nor cogent to inspire the confidence of the Court and hence we hold that the dying declaration of deceased Nargis recorded by PW-8 which is at Exh.63 cannot be made the sole ground for convicting the accused for an offence punishable under Section 302 of I.P.C."

13. As already observed, though PW-3 Rajesab Fulari stated in his examination that he informed the Special Executive Magistrate by letter (Exhibit-25) to record the dying declaration of said patient, the prosecution has not placed on record the dying declaration recorded by the Special Executive Magistrate. Perusal of the charge-sheet shows the names of proposed witnesses to be examined by the prosecution. In the said list of proposed witnesses, at Sr. No.6, name of one P.M. Sontakke, Taluka Executive Magistrate is mentioned, and against his name it is mentioned that he has recorded the dying declaration of the deceased. But the prosecution has not placed on

record the said dying declaration recorded by Taluka Executive Magistrate. The dying declaration recorded by the Executive Magistrate stands on much higher footing than the dying declaration recorded by any other person. In view of the exposition of law by the Supreme Court in the case of Khushal Rao vs. State of Bombay², the dying declaration recorded by a competent Magistrate in the proper manner, that is to say, in the form of questions and answers, and, as far as practicable, in the words of the maker of the declaration, stands on a much higher footing than a dying declaration which depends upon the oral testimony which may suffer from all the infirmities of human memory and human character.

14. In the present case there is no corroboration to sole dying declaration recorded by the police and therefore it is unsafe to rely upon sole dying declaration and convict the

2 A.I.R. 1958 S.C. 22 (V 45 C 4)

appellant. In the case of Surinder Kumar vs. State of Haryana³, the Supreme Court in Para 14 of the Judgment, observed thus:

"14. Another important aspect relating to failure on the part of prosecution is that on the date of the incident, the deceased had two children aged about six and four years respectively and both of them were present there, admittedly, the I.O. has not enquired them about the genuineness of the incident. Though, there are number of immediate neighbours/co-tenants in the same premises, their statements were not recorded which means that nobody supported the version of the prosecution. Though there is neither rule of law nor of prudence that dying declaration cannot be acted upon without corroboration but the court must be satisfied that the dying declaration is true and voluntary and in that event, there is no impediment in basing conviction on it, without corroboration. It is the duty of the court to scrutinise the dying declaration carefully and must ensure that the declaration is not the result of tutoring, prompting or imagination. Where a dying

3 2012 ALL M.R. (Cri) 696 (S.C.)

declaration is suspicious, it should not be acted upon without corroborative evidence. Likewise, where the deceased was unconscious and could never make any declaration the evidence with regard to it is rejected. The dying declaration which suffers from infirmity cannot form the basis of conviction. All these principles have been fully adhered to by the trial Court and rightly acquitted the accused and on wrong assumption the High Court interfered with the order of acquittal."

15. It is the case of the prosecution that the accused and his wife were working as labour on a brick-kiln. The owner of the brick-kiln had constructed about 30 hutment in which the labours were residing, including the accused and his wife. Thus there were number of immediate neighbours in the same premises, however the prosecution has examined only PW-1 Datta Uttam Bansode. It is pertinent to note that he also turned hostile and did not support the prosecution case. Therefore, his evidence is of no use to the prosecution.

Thus, the prosecution has failed to examine any other neighbour of the accused to support the prosecution case. Though the original record and proceeding reveals that on the date of incident, the deceased had two children, namely Krishna and Babali, aged about five years and two and half years respectively, the prosecution has not brought on record whether the investigating officer had made enquiry with them about the genuineness of the incident. Further, it is the case of the prosecution that after the incident, Varsha was shifted to the hospital by his brother and mother. However, the prosecution has failed to examine all these material witnesses.

16. The Supreme Court in the case of Prabhat alias Bhai Narayan Wagh and others vs. State of Maharashtra⁴, in Para 11 of the Judgment observed as under:-

"11. We find discrepancies in the

⁴ (2013) 10 S.C.C. 391

version given at the very initial stage. The discrepancies and contradictions noticed by the trial court were found to be minor in nature by the High Court, but in order view, there is serious flaw in the conduct of the case by the prosecution and the discrepancies and contradictions pointed out by the trial court cannot be ignored as minor. No explanation is forthcoming as to why Shobhana Parkar was not examined in this case. Even according to the prosecution, Shobhana Parkar had also received injuries on her arm when she tried to intervene. The prosecution story is that the deceased Sanjay Gaonkar ran to the house of Shobhana Parkar and that he was attacked just inside the door of the house of Shobhana Parkar. If that being so, in our view, Shobhana Parkar, who herself was injured and tried to intervene, was a crucial witness. Non-examination of Shobhana Parkar as well as the contradictory versions in Ext. 28 and Ext. 27 as well as the discrepancies and omissions pointed by the trial court, create a dent in the prosecution story.

17. As already observed, there is material

variance in the core of the prosecution case as to who has poured kerosene on the person of Varsha. In the dying declaration, Varsha has stated that her husband poured kerosene on her person and set her on fire. As against this, PW-4 Dr. Bhaskar Sabale, who treated the patient when she was admitted in the hospital, has categorically deposed that he asked the history to the patient and she told that she poured kerosene on her body herself and her husband set her on fire. We have carefully perused the sole dying declaration Exhibit-23. Though there appears to be an endorsement of the doctor before recording and after recording the dying declaration about consciousness of the patient, there is no seal of the hospital, below the signatures of the doctor. Further, below the dying declaration there appears to be thumb impression of the deceased but the same is not attested by anybody. Admittedly after the incident, Varsha was shifted to the hospital by her brother and mother and therefore the

possibility of tutoring cannot be ruled out. We are not satisfied that the dying declaration is true, voluntary and without any suspicion. It is a matter of record that Varsha sustained 88% burn injuries and therefore it is difficult to believe that she was fully conscious and well oriented while giving the dying declaration. Thus, we are of the considered view that the dying declaration is suspicious and therefore the same cannot form the basis of conviction.

18. The prosecution has not examined any single witness to show that at the time of incident the accused was present in the house, so as to shift the burden of proof on the appellant-accused as per Section 106 of the Evidence Act.

19. We have perused the Judgment and order passed by the trial Court. The reasons recorded by the trial Court are very cryptic. The trial Court has not appreciated entire evidence brought on

record in its proper perspective and reached to a wrong conclusion. The findings recorded by the trial Court are not in consonance with the evidence brought on record. The trial Court has acquitted the accused from the offence punishable under Section 498-A of the I.P. Code. However, on the same set of evidence, the trial court has convicted the accused for the offence punishable under Section 302 of the I.P. Code. Since the Appellant is acquitted from the offence punishable under Section 498-A of the I.P. Code, the motive as per the prosecution case, for the commission of alleged offence by the Appellant, punishable under Section 302 of the I.P. Code, is not at all established.

20. In the light of discussion in foregoing paragraphs, an inevitable conclusion is that the Appellant is entitled for the benefit of doubt. Hence we pass the following order:

O R D E R

(I) The Criminal Appeal is allowed.

(II) the Judgment and order dated 26th July, 2013, passed by the Sessions Judge, Osmanabad in Sessions Case No.52 of 2012, thereby convicting the accused/Appellant - Bapu (Nandu) Prabhu Koli @ Raut for the offence punishable under Section 302 of the Indian Penal Code and sentencing him to suffer imprisonment for life, is quashed and set aside.

(III) The Appellant is acquitted of the offence punishable under Section 302 of the Indian Penal Code. Fine amount, if deposited as per the impugned Judgment and order, be refunded to the Appellant.

(IV) The order passed by the trial Court to the extent of acquitting the accused of the offence punishable under Section 498-A of the Indian Penal Code is hereby confirmed.

(V) The Appellant - Bapu (Nandu) Prabhu Koli @ Raut is in jail, he be set at liberty forthwith, if not required in any other case.

(VI) The Appellant shall furnish Personal Bond of Rs.15,000/- and surety in the like amount under Section 437-A of the Code of Criminal Procedure, before the concerned trial Court at Osmanabad.

(VII) Since Mr. Avishkar S. Shelke learned counsel is appointed to prosecute the cause of the Appellant,

his fees and expenses are quantified at
Rs.7,500/- (Rupees Seven Thousand Five
Hundred only).

[V.K. JADHAV, J.]

asb/JUL18

[S.S. SHINDE, J.]