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

BAIL APPLICATION NO. 441 OF 2017

Anil Julal Patil

... Applicant

V/s.

The State of Maharashtra

...Respondent

Mr. Moomen a/w S.S. Bhutala i/b Bhutala & Associates for Applicant.

Mr. R.M. Pethe, APP for the Respondent/State.

Mr. S.S. Patil, API, CBD Police Station present.

CORAM : A.S.GADKARI, J.

DATE : 19th JANUARY 2018.

P.C.:

1] This is the second application for bail by the applicant under Section 439 of Cr. P.C.

The earlier bail application was dismissed as withdrawn by this Court by its Order dated 11.12.2015 with liberty to the applicant to file a fresh application if the trial pertaining to CR No.I-92 of 2015 registered with CBD Police Station, Navi Mumbai does not commence within a period of one year from the date of the said Order. The record indicates that, the applicant thereafter preferred an application for bail before the Trial Court which has been rejected by its Order dated 23.1.2017.

2] Heard the learned Counsel for the applicant and the learned APP. Perused the chargesheet.

3] At the outset, it is to be noted here that, despite granting sufficient time since 11.12.2015, the prosecution has not bothered to commence the trial till date. The applicant is in jail since 22.5.2015. The Trial Court has not even framed the charge.

4] The deceased Smt. Poonam Patil was the wife of the applicant. It is the prosecution case that, the applicant was addicted to liquor and used to cause mental and physical harassment to the deceased. That the applicant used to demand money from the deceased. That on 21.5.2015 at about 3.00 a.m the applicant came to the residence under the influence of liquor and thereafter poured kerosene on the person of the deceased Smt. Poonam and ignited it. Smt. Poonam received 98% burns. That she was immediately admitted to hospital where she succumbed to injuries on 24.5.2015. During the course of investigation the applicant came to be arrested on 22.5.2015 and after completion of investigation the police have submitted chargesheet.

5] The record indicates that, on the date of occurrence of the incident, two sons namely Divesh and Om of the applicant and deceased

Smt. Poonam were present in the house, however, the chargesheet is silent about recording of their statements in that behalf. It is the defence of the applicant that, the clothes of the deceased came in contact with Oil Lamp (Night Lamp) due to which it caught fired.

6] After perusing the chargesheet, in view of peculiar facts of the present case and that the applicant is in jail since 22.5.2015 and since the trial is not yet commenced, this Court is of the view that the applicant can be released on bail.

Hence the following Order:

(i) The applicant be released on bail in CR No.I-92 of 2015 registered with CBD Police Station, on his furnishing PR bond of Rs.25,000/- with one or two solvent local sureties in the like amount.

(ii) After his release from jail, the applicant shall attend the concerned Police Station every 1st Monday of the month between 11.00 a.m. to 1.00 p.m till the conclusion of trial.

(iii) Applicant shall also attend all dates before the Trial Court.

(iv) Applicant shall not tamper with the evidence and/or influence the prosecution witnesses.

7] Application is allowed in the aforesaid terms.

(A.S.GADKARI, J.)