

IN THE HIGH COURT OF JUDICATURE AT BOMBAY**CRIMINAL APPELLATE JURISDICTION****BAIL APPLICATION NO. 538 OF 2018**

Santosh Babu Gaikwad

....Applicant.

Vs.

State of Maharashtra

....Respondent.

Neville D. Deboo for the Applicant.

Ms. A.A. Takalkar APP, for the Respondent-State.

Mr. S.R. Lokhande, API, Aarey Police Station.

CORAM : A. S. GADKARI, J.

DATE : 19th JUNE, 2018.

P.C.:-

This is an Application under Section 439 of the Code of Criminal Procedure for bail in CR No.69 of 2017 dated 2nd June, 2017 registered with Aarey Police Station, Mumbai under Sections 304(B), 306, 498(A) of the Indian Penal Code, now culminated into Sessions Case No.280 of 2017.

2 Heard the learned counsel appearing for the Applicant, the learned APP. Perused the charge sheet.

3 The Applicant is the husband of deceased Smt. Sangita Gaikwad. The date of incident is 30th May, 2017.

It is the prosecution case that, the Applicant used to demand dowry from the deceased and for non-fulfillment of the said demand, used to harass and torture Sangita and therefore, on 30th May, 2017 between 8.30 a.m. to 8.45 a.m. she poured kerosene on her person and ignited the fire. The Applicant was present in the house and was sleeping in the house of at that time. Sangita was rushed to the hospital immediately. The police recorded her dying declaration immediately at about 10.45 a.m. Sangita succumbed to injuries on 30th May, 2017 at about 11.30 a.m. The Applicant came to be arrested on 2nd June, 2017. After completion of investigation, the police have submitted charge sheet.

4 The dying declaration of the deceased Sangita clearly indicates that, she has not put blame on anybody and it is stated that due to the severe pain in her stomach, she was frustrated and therefore, she poured kerosene on her person on the date and time of incident and ignited it with the help of earthen-fire (Chul). It is to be noted here that, the police have recorded the said dying declaration immediately and without any delay and after the said dying declaration was recorded, Sangita expired at about 11.30 a.m.

5 Prima facie, it appears that at this stage there is no reason

to disbelieve the contents of the dying declaration, which has been properly recorded by the investigating agency.

6 In view of the above, the Applicant can be released on bail.

7 Hence, the following order.

- a) The applicant be released on bail in CR No.69 of 2017 dated 2nd June, 2017 registered with Aarey Police Station, Mumbai now culminated into Sessions Case No.280 of 2017 pending on the file of Additional Sessions Judge, City Civil and Sessions Court, Borivali Division, Dindoshi on his furnishing PR bond of Rs.25,000/- with one or two solvent local sureties in the like amount.
- b) After his release from Jail, the Applicant shall attend Aarey Police Station on every first Monday of the month between 11.00 a.m. and 1.00 p.m.
- c) The Applicant shall also attend all the dates before the Trial Court unless precluded on medical reasons.

- d) The Applicant shall not tamper with the evidence
and/or pressurize the prosecution witnesses.

8 Application is allowed in the aforesaid terms.

(A.S. GADKARI, J.)