

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

CRIMINAL BAIL APPLICATION NO.1340 OF 2017

Umesh Ashok Dhumal ..Applicant

vs.

The State of Maharashtra ...Respondent

Mr. A. P. Mundargi, Senior counsel i/b Mr. Devidas J. Jadhav for Applicant .

Mr. S. H. Yadav, APP for the Respondent.

CORAM : P. N. DESHMUKH, J.

DATE : 23rd MARCH, 2018

P.C.:

. Heard Mr.Mundargi, learned senior counsel for applicant and Mr.Yadav, learned APP for the State. This application is for grant of bail in C.R.No.383/2016 registered with Akulj Poice Station, District Solapur initially for the offence punishable under section 323, 504 and 506 of IPC. It appears that after the death of deceased on 28/9/2016 offence punishable under section 302 of IPC came to be added in the present crime.

2. Learned counsel for applicant submitted that except dying declaration, there is no other statement of any witnesses or neighbour independently establishing involvement of applicant in the present crime and thus contended that since applicant is in jail since September 2016, he be released on bail.

3. Learned APP on the other hand opposed grant of bail contending that there is direct evidence in the form of dying declaration of deceased which is immediately recorded after the incident by police in the presence of Doctor and has contended that there is nothing to disbelieve

the said statement. It is further stated that even otherwise as per instructions received trial is fixed for further evidence on 12/4/2018.

4. On 11/9/2016 deceased Jabina Shaikh was admitted in the hospital for having suffered burn injuries where her statement came to be recorded and on the basis of the same offence is registered. In her statement she has stated that she is divorcée and as such was residing with applicant along with her son from her first marriage as applicant was maintaining them. She further stated that 8 days prior to incident there was quarrel between applicant and herself and in continuation of same on the day of incident on 11/9/2016 at 5.00 p.m. applicant again quarreled with her and on extending threats to kill poured kerosene on her person and set her on fire. Her statement further reveals that deceased was dragged out of house which was witnessed by neighbours who extinguished the fire. Applicant is further stated to have carried her on motor cycle, however left her near one temple and fled away. According to deceased she herself then reached hospital in autorickshaw where her statement came to be recorded. Considering the contents of statement as aforesaid there is direct evidence. There is nothing to disbelieve said piece of evidence which can be subjected to test during trial which is already stated to have commenced. Statement is immediately recorded after the incident at 6.10 p.m. while the incident is stated to have taken place at 5.00 p.m. on 11/9/2016.

5. Statement of Sufiyana, son of deceased also to some extent corroborate the version of deceased that applicant without any reason invited quarrel with them.

6. Having considered the facts as aforesaid and as according to post mortem notes cause of death of deceased is due to 95% burn injuries which were superficial to deep burns and as from the medical certificate of

applicant, applicant is also found to have sustained burn injuries on his person and was admitted in hospital for that reason on 11/9/2016, prima facie there is sufficient evidence establishing applicant's involvement in the case. Application is therefore rejected.

(P.N. DESHMUKH, J)