

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

CRIMINAL BAIL APPLICATION NO. 1417 OF 2018

Umesh Baburao Katkar. ..Applicant.

V/s.

State of Maharashtra. ..Respondent.

Mr. Kuldeep S. Patil, advocate for applicant.

Mr. Vinod Chate, APP for State.

Mr. V.N. Mohite, PN. Ranjangaon Police Station.

CORAM : SMT. SADHANA S. JADHAV,J.

DATE : JUNE 29, 2018.

P. C. :

1 Heard the learned Counsel for the applicant and the learned APP for State. Leave to amend. Amendment to be carried out forthwith.

2 This is an application under section 439 of the Code of Criminal Procedure, 1908. The applicant herein is arrested on 22/6/2017 in Crime No. 87 of 2017 registered with Ranjangaon MIDC Police Station, for offence punishable under section 302, 323, 506 of the Indian Penal Code and Section 3(2)(v) of the Atrocities Act. Investigation is completed and charge-sheet is filed.

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3 It is the case of the prosecution that on 13/6/2017 Priya Pahlani was admitted in the hospital at Shirur with history of burn injuries. Being medico legal case, her statement was recorded after obtaining opinion of Doctor. She had disclosed to the police that on 13/6/2017 she was cooking. Her husband i.e. the present applicant was also at home. She had kept the canister of kerosene on the shelf above the kitchen platform. She was trying to take it. At that time, she had slipped. The kerosene had fallen on the stove and she had caught fire and thereafter, her husband and his friend had admitted her in hospital. It appears to be a case of accidental burns.

4 On 16/6/2017, the second statement of the injured was recorded, wherein she had contended that she was in love with the present applicant. She was residing with the applicant. On 13/6/2017 they were quarreling on the ground that she wanted to visit her maternal house, however, he refused to send her. She wanted to withdraw herself from the society of her husband. Being enraged, the applicant had allegedly poured kerosene on her person and set her on fire due to which she had sustained burn injuries.

5 While she was under treatment, one more statement was

recorded on 17/6/2017, wherein she has disclosed that when she was working in GKB company, she had met the present applicant. They were in love with each other. On one occasion, she had also conceived pregnancy. However, the same was terminated. She had agreed to live with him only because he had assured her that he would get married to her. However, he had got married with another girl namely Mayuri. Despite that he was insisting upon her to stay with him. Upon refusal to oblige, he got enraged, poured kerosene on his person and set her ablaze.

6 There are 3 dying declarations which are in variance with each other. The scene of offence panchanama corroborates the first dying declaration. Be that as it may, in view of the inconsistent dying declarations of the deceased, the applicant deserves to be enlarged on bail.

7 The observations are restricted to the application under section 439 of the Code of Criminal Procedure, 1973 and the same shall not be considered for discharge or at the time of trial.

8 Hence, following order is passed :

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ORDER

- (i) The application is allowed.
 - (ii) The applicant be enlarged on bail on furnishing P.R. Bond in the sum of Rs. 50,000/- with one or more solvent sureties in the like amount.
 - (iii) The applicant shall not tamper with the evidence.
- 9 The application is disposed of accordingly.

[SMT. SADHANA S. JADHAV, J.]