

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

BAIL APPLICATION NO.1648 OF 2017

Tukaram Bhau Mohol		Applicant
<u>Vs.</u>		
The State of Maharashtra		Respondent

Mr. Satyavrut Joshi for the Applicant.
Ms. S.S. Kaushik, APP for the State.

Coram : Smt. Sadhana S. Jadhav, J.
Date : 15th January, 2018

P.C.:

1 Heard the learned counsel for the applicant and the learned APP.

2 This is an application under Section 439 Code of Criminal Procedure. The applicant herein is arrested on 14th January, 2015 in Crime No.13 of 2015, registered at Vadgaon Mawal Police Station for the offences punishable under Sections 302, 307, 498A, 323, 504, 506 read with 34 Indian Penal Code. The investigation is completed and the charge-sheet is filed.

3 It is the case of the prosecution that on 13th January 2015, one Kanta alias Savita Tukaram Mohol wife of Tukaram i.e. the

present applicant admitted in Sasoon Hospital. Since it was medico legal case, her statement was recorded by the Police on 14th January 2015. She had disclosed to the Police that she was married to the applicant 9 years ago. The couple is blessed with two sons. That ever since she was married, she was being ill-treated by her husband. He was an alcoholic. That Kanta used to go for work on daily wages and meet both the ends meet. He used to demand money for consuming liquor and upon refusal, he used to assault his wife. On 13th January 2015, she had visited her mother who had brought groceries and vegetables for her. She returned home at about 5.00 pm., and had cooked food. At about 8.35 pm., after the dinner, her husband started demanding money for consuming liquor. Upon refusal, Kanta was beaten by footwear and thereafter her husband had poured kerosene on her person and set her ablaze.

4 Learned counsel for the applicant submits that in the same incident, the applicant had also sustained burn injuries and was treated as indoor patient and therefore, according to him, it was a case of accidental burns and the applicant had attempted to extinguish her flames. The injured Kanta had succumbed to the burn injuries on 17th January 2015. The dying declaration is further corroborated by the statements of the neighbours. They have candidly stated that on 13th January 2015 at about 8.30 pm, they had heard hue and cry from the house of the applicant. They had seen

that his wife had sustained burn injuries. When they were attempting to extinguish her flames, Kanta had disclosed to the neighbours that she had been set ablaze by the present applicant. There is no reason to disbelieve the dying declaration at this stage. Moreover the written dying declaration is further corroborated by oral dying declaration and the statements of the neighbours. It is in these circumstances, the applicant does not deserve to be enlarged on bail. The application being sans-merits stands rejected.

5 The observations made hereinabove are prima facie in nature and are restricted to the application under Section 439 Code of Criminal Procedure and learned trial Court shall not be influenced by the same at the time of trial.

(*Smt. Sadhana S. Jadhav, J*)