

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

BAIL APPLICATION NO.1945 OF 2018

Tanaji Dattatraya Sarkale	...Applicant
Versus	
The State of Maharashtra	...Respondent

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Mr. Pranav Pokale I/b. Mr. Abhishek Patil for the Applicant.
Mrs. J.S. Lohokare, APP for the Respondent -State.
Mr. R.D. Dhage, Police Constable, Shirur police station, Pune (rural)
present.

CORAM : SMT. ANUJA PRABHUDESSAI, J.

DATED: 11th OCTOBER, 2018.

P.C.:-

This is an application under Section 439 of the Cr.P.C. filed by the aforesaid Applicant, who has been arrested in Crime No.177 of 2016 registered with Shirur Police Station, Pune (rural), for offences punishable under Sections 302 and 506 of the Indian Penal Code, 1860.

2. Mr. Pranav Pokale, the learned counsel for the Applicant submits that the aforesaid crime was registered pursuant to the second dying declaration made by the deceased. He submits that the said dying declaration/FIR was recorded on 8.5.2016 at about 9.00 p.m. while first dying declaration was recorded on the same date at about

12.10 p.m. In the said dying declaration, which was first in point of time, the deceased had stated that she had sustained burn injuries due to accidental blast of stove. He submits that apart from two inconsistent dying declarations there is no prima facie material to show the involvement of the Applicant in commission of the crime. The learned counsel for the Applicant further submits that material on record indicates that the Applicant had poured water and tried to extinguish the flame and further he had taken her to the hospital. These facts prima facie rule out the possibility of the Applicant setting her ablaze and thus committing murder of his wife.

3. Mrs. J.S. Lohokare, the learned APP submits that the first dying declaration was recorded in presence of the Applicant and that there is every possibility that the first dying declaration was made under pressure and coercion by the Applicant. She further submits that the statement of the father of the deceased clearly indicates that the Applicant herein was involved in the crime.

4. I have perused the records and considered the submissions of the learned counsel for the respective parties.

5. The records prima facie reveal that the deceased-Priyanka, had sustained burn injuries on 8.5.2016 and she was admitted in Sasoon hospital. She succumbed to the injuries on 11.5.2016. The police constable had recorded her statement/dying declaration on 8.5.2016 at about 12.10 p.m., where said Priyanka had stated that she had sustained the burn injuries on 7.5.2016 at about 9 to 9.30 p.m. due to accidental blast of stove. She had stated that while she was lighting the stove, it suddenly burst and her sari caught fire. She claimed that on hearing her cry her husband rushed to the spot, poured water and tried to extinguish the flames and thereafter got her admitted in Sasoon hospital. In the subsequent statement/ dying declaration, which was recorded by the same constable on the same day at about 9.31 p.m. she claimed that on 7.5.2016 there was a quarrel between her and her husband as her husband suspected her character. She claimed that the Applicant had poured Kerosene on her person and set her ablaze. He poured water on her body and tried to extinguish the fire. She stated that thereafter the Applicant ran away from the place of the incident.

6. A plain reading of these two dying declarations would prima facie indicate that in the first dying declaration she has not

implicated the Applicant whereas in the second dying declaration she has stated that the Applicant had poured kerosene and set her ablaze. The dying declarations are inconsistent and mutually contradictory to each other.

7. It is also pertinent to note that in the 2nd dying declaration, the deceased had claimed that the Applicant had run away from the place of the incident. The statement of one Bapu Khore, the owner of a six seater rickshaw, prima facie reveals that on 7.5.2016 at about 9.15 p.m. the Applicant told him that his wife had sustained burn injuries and that he hired his rikshaw to take the deceased to the hospital. He has stated that he took the Applicant and the deceased upto Kashti and from Kashti one Machindra Sarode took the deceased and the Applicant to the hospital of Dr. Samir Kulkarni.

8. Mr. Machindra Sarode, the paternal uncle of Priyanka has also stated that he had learnt that the Applicant had taken Priyanka to the hospital. He had stated that he asked the Applicant to wait at Kashti and thereafter he went to Kashti and took Priyanka to the hospital of Dr. Samir Kulkarni. Thus, the material on record prima facie reveals that the Applicant herein had poured water over the body

of Priyanka and tried to extinguish fire and that he had himself taken her to the hospital. The material on record prima facie reveals that the deceased had implicated the Applicant only after her relatives had gathered at the hospital.

9. The above facts and circumstances justify grant of bail. The Applicant is in custody since 10.5.2016. The charge sheet has already been filed and the presence of the Applicant is not required in custody. He is a permanent resident of Shirur, hence there is no possibility of his absconding or fleeing from justice. The Applicant has no criminal antecedents.

10. Under the circumstances and in view of discussion supra, the application is allowed on following terms and conditions:-

- (i) The Applicant, who has been arrested in Crime No.177 of 2016 registered with Shirur Police Station, Pune (rural) shall be released on bail on furnishing bail bonds of Rs.50,000/- with one or two solvent sureties in the like amount.
- (ii) The Applicant shall report to the Investigation Officer and in his absence, to the Senior P.I. of the

Shirur Police Station on first Monday of every month until further orders.

- (iii) The Applicant shall furnish his permanent as well as temporary address, if any, and his contact details to the concerned Investigation Officer.
- (iv) The Applicant shall not change his residential address without prior intimation to the concerned Investigation Officer.
- (v) The Applicant shall not interfere with the witnesses in any manner.

(SMT. ANUJA PRABHUDESSAI, J.)

Megha
Shridhar
Parab

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by Megha
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