

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

BAIL APPLICATION NO.2317 OF 2017

Vikas @ Hemant Sampya @ Sampat.... Applicant
Pawar

Vs.

The State of Maharashtra Respondent

Mr. Ghansham S. Jadhav for the Applicant.
Mr. S.H. Yadav, APP for the State.

***Coram : Smt. Sadhana S. Jadhav, J.
Date : 5th January, 2018***

P.C.:

1 Heard the learned counsel for the applicant and the learned APP. Perused the papers of investigation.

2 This is an application under Section 439 Code of Criminal Procedure. The applicant herein is arrested on 24th May, 2016 in Crime No. 287 of 2016. registered at Baramati City Police Station on 22nd May, 2016.

3 Initially the offence was registered under Section 307 read with 34 Indian Penal Code. It is the case of the prosecution that

on 22nd May, 2016, Shilpa Pawar i.e. the wife of the present applicant was admitted in Government hospital at Baramati with history of burn injuries. Since it was a medico legal case, the statement of injured was recorded by lady Police officer of Baramati Police Station. The injured had disclosed to the police that on 22nd May, 2016, in the afternoon at about 3.00 pm., her husband, in-laws and her brother-in-law as well as one person namely Shindya Sampya Pawar had woke her up. They had demanded Rs.25,000/- from her. She had refused to oblige. On denial, her mother-in-law had started assaulting her and her husband had poured kerosene from stove on her person and she was set ablaze. On the basis of the said statement, an offence was registered under Section 307 Indian Penal Code.

4 On 24th May, 2016, the statement of the injured was again recorded and she had reiterated the allegations. She had disclosed to the police in her supplementary statement that at the time of incident, the niece of the injured namely Roshana was present in the house and she has witnessed the said incident. The victim was taken home by her parents against the medical advise. She succumbed to the burn injuries on 5th June, 2016. Thereafter the offence was registered under Section 302 Indian Penal Code.

5 In the course of the investigation, the statement of Roshana was recorded, wherein she had disclosed to the police that her aunt was set ablaze by the present applicant, his parents and brother on 22nd May, 2016.

6 Learned counsel for the applicant submits that the person namely Sampya @ Sampat Pawar has been enlarged on bail by this Court by an order dated 16th November 2016. The co-accused has been enlarged on bail. It is also submitted that the mother-in-law of the deceased namely Sulochana has also been enlarged on bail by this Court (Coram : Mrs. Revati Mohite Dere, J.) by an order dated 5th May, 2017 and she has been enlarged on bail. It is pertinent to note that the in-laws have been enlarged on bail mainly on the ground that they happen to be old aged and infirm. Both the applicants have been enlarged on bail by virtue of benefit of proviso to Section 437 of Cr.P.C. Learned APP submits that the applicant happens to be husband of the deceased, the applicant cannot claim parity with his parents i.e. the co-accused. Upon perusal of records, it is clear that there are two consistent dying declarations implicating the applicant. Moreover, there is an eye witness to the incident. In these circumstances, the applicant does not deserve to be enlarged on bail. The application being sans-merits, stands rejected.

7 However, it is made clear that the observations made hereinabove are restricted to the application under Section 439 Code of Criminal Procedure and the learned Sessions Judge shall not be influenced by the same.

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