

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

BAIL APPLICATION NO.924 OF 2019

Khandu Haridas Bhise & Anr.

.... Applicants

versus

The State of Maharashtra

.... Respondent

.....

- Mr. Ritesh Thobde a/w. Sagar Tambe, Advocate for Applicant.
- Mr. Prashant Jadhav, APP for the State/Respondent.
- Ms. Meena R. Mare, PSI, Mohal Police Station, present.

CORAM : SARANG V. KOTWAL, J.

DATE : 20th AUGUST, 2019

P.C. :

1. The applicants are seeking their release on bail in connection with C.R. No.628/2018 registered at Mohol Police Station, Solapur under Sections 498-A, 304-B, 323 and 504 r/w. 34 of IPC.

2. The present applicants are husband and father-in-law of the deceased Anuradha. The FIR is lodged on 24/8/2018 by brother of the deceased. He has stated that the applicant had got

married with the deceased on 21/5/2017. Initially, she was treated properly but after a couple of months, the applicants and her mother-in-law started ill-treating her. It was alleged that they were demanding Rs.2 Lakhs for constructing a house and on that count they used to ill-treat her. It was stated in the FIR that in the month of February 2018, the deceased had told the first informant that both the applicants and her mother-in-law used to prevent her from talking with her relatives. Once she was even assaulted. The informant had taken the deceased with him and she was given medical treatment. Subsequently, the applicant No.1 went to the first informant and on assurance of good behaviour brought her back with him. On 16/8/2018, the deceased suffered burn injuries. The informant was told by one of his elder sisters on mobile phone that deceased was admitted in the Civil Hospital. It is his case that deceased told him that applicant No.2 and her mother-in-law instigated her to commit suicide. They told her to pour kerosene on herself and set herself on fire. She was fed up and actually did that. The deceased was taken to Solapur for treatment. She further stated before this witness that she gave

wrong dying declaration before the police. On these allegations, the FIR was lodged. The applicant was arrested on 24/8/2018. The incident had occurred on 16/8/2018 and the deceased succumbed to her injuries on 23/8/2018. The cause of death was mentioned as “septicemia due to burn injury”.

3. Heard Mr. Ritesh Thobde, Ld. Counsel for the Applicants and Mr. Prashant Jadhav, Ld. APP for the State.

4. Mr. Thobde submitted that the co-accused mother-in-law Mandodari is granted bail by this Court vide order dated 17/12/2018 passed in Bail Application No.2878/2018. He submitted that the case of the applicant No.2 stands on the same footing as that of accused who was granted bail. He further submitted that the role attributed to the present applicant No.1 is much lesser and therefore, both of them deserve to be released on bail. He further submitted that the dying declaration recorded in the hospital had exonerated all the accused and therefore there is no reason why it should not be believed at this stage. Therefore, he submitted that applicants be released on bail.

5. These submissions are opposed by Ld. APP. He submitted that the first informant had given explanation as to why the deceased had given wrong dying declaration before the police. The said dying declaration was recorded on 18/8/2018. He submitted that the offences are serious and are clearly made out in the FIR itself. He submitted that apart from first informant there are statements of mother and other brother of the deceased. They support the case of prosecution.

6. I have considered these submission. The deceased had given her dying declaration on 18/8/2018 before the Sub Inspector of Police attached to Mohol Police Station. In that statement, she has clearly stated that she had suffered burn injuries, while she was cooking on a stove. There was burst of flame and that caused fire. At that time, both the applicants were not in the house. The mother-in-law extinguished the fire and thereafter, she was taken to hospital. This statement was recorded on 18/8/2018. The first informant had already approached the deceased on 17/8/2018. Therefore, the prosecution case that the

deceased was forced to give the statement by the applicants does not appear probable as the informant had already met the deceased. Apart from that, the fact remains that there are two separate dying declarations. The applicant No.2 deserves to be released on bail on the ground of parity. His role cannot be distinguished from that of the accused who was granted bail. There are hardly any serious allegations against the applicant No.1. Even as per oral dying declaration only the parents of the applicant No.1 were near the deceased. They allegedly instigated her to commit suicide. Therefore, in any case the applicant No.1 has a better case than his parents. Considering all this submissions and taking into account the fact that the applicants are in custody since 24/8/2018, no further purpose will be served by keeping them in custody during the entire period of trial. Therefore, I am inclined to grant bail to the applicants. Hence, the following order.

ORDER

(i) The applicants are directed to be released on bail in connection with C.R. No. 628/2018 registered at Mohol Police Station, Solapur, on their executing P.R. Bond in the sum of Rs.25,000/- (Rs.Twenty Five Thousand Only) each with one or two sureties each in the like amount.

(ii) The application is disposed of.

(SARANG V. KOTWAL, J.)