

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
CRIMINAL APPLICATION NO. 541 OF 2019
IN
CRIMINAL APPEAL NO. 640 OF 2019

Haridas @ Hari Kisan Korde ... Applicant

Versus

The State of Maharashtra ... Respondent

M r. Rohan Barge for the applicant.

Mr. J.P. Yagnik, APP for the State.

CORAM : B.P. DHARMADHIKARI &
SANDEEP K. SHINDE, JJ.
DATE : SEPTEMBER 25, 2019

P.C.:

Heard.

2. The conviction is based on the dying declaration. Learned counsel appearing for the applicant submits that the deceased was burnt and her dying declaration has not been recorded after following proper procedure. It therefore, cannot be relied upon.
3. Learned APP had opposed the contention.
4. With the assistance of the respective counsel, we have perused the deposition of PW 3 who has recorded the dying declaration, PW 5 Doctor who has certified the state of mind and health of the deceased at that time.

5. Though on the dying declaration made available to this court, in the margin, there is no endorsement about the health and consciousness of the deceased, Doctor PW. 5 has deposed about his endorsement. He has stated that in his presence PW 3 API started recording the dying declaration. The patient was giving answers. He was present through out. He has certified the ability and competence of the patient in the margin of dying declaration. The trial court has considered this issue in paragraph 23 of its judgment.

6. The facts show that in the presence of Doctor, dying declaration has been recorded after removing all the relatives. The answers given by the patient have been recorded and doctor has certified the consciousness and orientation of the patient during the process.

7. In this situation, we find no case made out for release of the applicant on bail. Bail application is rejected.

(SANDEEP K. SHINDE, J.)

(B.P. DHARMADHIKARI, J.)