

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

CRIMINAL BAIL APPLICATION NO. 1016 OF 2019

Vikas Bhivaji Davane

...Applicant

Versus

The State of Maharashtra

...Respondent

Mr. Satyavrat Joshi i/b. Mr. Nitesh J. Mohite, Advocate for the Applicant.
Ms. P.P. Shinde, A.P.P for the Respondent-State.

CORAM : REVATI MOHITE DERE, J.
DATE : 17th SEPTEMBER, 2019.

P.C. :

1 Heard learned counsel for the parties.

2 By this application, the applicant seeks his enlargement on bail in connection with C.R. No. 422 of 2017 registered with the Manpada Police Station, Thane for the alleged offences punishable under Sections 498(A), 307, 304 (B), 323, 504 read with Section 34 of the Indian Penal Code.

3 Perused the papers. The applicant is the husband of deceased – Amrapali. According to the prosecution, the incident took place on 12.07.2017 at around 7 - 8 p.m. There are five dying declarations made by

deceased - Amrapali. The first dying declaration was recorded by A.P.I., Bhoiwada Police Station on 13.07.2017, in which deceased – Amrapali disclosed that she sustained accidental burns whilst cooking. The second dying declaration recorded by P.I., Bhoiwada Police Station on 16.07.2017 also shows that deceased – Amrapali had disclosed that she sustained accidental burns whilst cooking. Similarly, the third dying declaration before the Executive Magistrate recorded on 18.07.2017 also shows that deceased – Amrapali had disclosed that she sustained burns whilst cooking. It is only on 25.07.2017, that deceased – Amrapali made a statement before P.S.I., Bhoiwada Police Station, for the first time, that the applicant poured kerosene on her person, pursuant to which, she sustained burn injuries. The said statement made on 25.07.2017 was treated as an F.I.R. Again on 10.08.2017, Amrapali's statement was recorded by the Executive Magistrate, wherein, she again disclosed that she sustained homicidal burns. It may be noted that in almost all the dying declarations, Amrapali has disclosed that her husband i.e. the applicant had covered her with a blanket and taken her to the hospital. It is pertinent to note that, when Amrapali was admitted to the hospital of the M.C.G.M, she had given history of accidental burns whilst cooking. She has also stated before the

Doctor, that her husband i.e. the applicant had covered her with a blanket and brought her to the hospital. The statements of the witnesses show that, they saw Amrapali after she had sustained burn injuries and that the applicant had covered Amrapali with a blanket and taken her to the hospital.

4 There are multiple and contrary dying declarations. Initial dying declarations show that Amrapali sustained accidental burns whereas, the last two dying declarations show that she sustained homicidal burns. Whether or not Amrapali sustained homicidal burns or accidental burns is a matter, which will be decided by the trial Court. The applicant is in custody since July 2019. Investigation is complete and charge-sheet is filed.

5 Considering the aforesaid, the application is allowed on the following terms and conditions :

ORDER

(i) The applicant be enlarged on bail, on executing PR Bond in the sum of Rs. 15,000/- with one or two sureties in the like amount;

- (ii) The applicant shall attend the concerned Police Station on the first Saturday of every month from 10:00 a.m. to 12:00 noon till the conclusion of the trial;
- (iii) The applicant shall not tamper with the evidence or attempt to influence or contact the complainant, witnesses or any person concerned with the case;
- (iv) The applicant shall inform his latest place of residence and mobile contact number and/or change of residence or mobile details, if any, from time to time to the Court seized of the matter and to the Investigating Officer of the concerned Police Station;
- (v) The applicant to cooperate with the conduct of the trial and attend all the dates before the trial Court, unless exempted;
- (vi) The applicant shall file an undertaking with regard to clauses (ii) to (v) in the trial Court, within two weeks of his release;
- (vii) If there are two consecutive defaults either in attending the Police Station or in appearing before the trial Court, or breach of any of the

aforesaid conditions, the prosecution shall be at liberty to seek cancellation of the applicant's bail.

6 The application is accordingly disposed of.

7 It is made clear that the observations made herein are *prima facie*, and the trial Court shall decide the case on its own merits, in accordance with law, uninfluenced by the observations made in this order.

8 All concerned to act on the authenticated copy of this order.

(REVATI MOHITE DERE, J.)