

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

**CRIMINAL BAIL APPLICATION NO. 1918 OF 2018**

|                          |     |                   |
|--------------------------|-----|-------------------|
| Amol Laxman Magar        | ... | <b>Applicant</b>  |
| V/s.                     |     |                   |
| The State of Maharashtra | ... | <b>Respondent</b> |

-----

Mr.Satyavrat Joshi a/w. Mr.Nitesh Mohite for Applicant.  
Mr.Amit Palkar, A.P.P. for Respondent-State.

**CORAM : A.S. GADKARI, J.**

**DATE : 3<sup>rd</sup> April 2019.**

**P.C. :**

1] This is an application under Section 439 of the Code of Criminal Procedure for bail in connection with C.R. No. I-40 of 2018 dated 23/01/2018 registered with Narpoli Police Station, District Thane, for the offence punishable under Section 302, 323, 504 of the Indian Penal Code.

2] Heard the learned counsel for the applicant and the learned APP for the State. Perused the chargesheet.

3] The deceased Smt.Ashwini Magar was the wife of the applicant.

It is the case of the prosecution that, the applicant was not doing any work and used to beat deceased under the influence of alcohol. That on 21<sup>st</sup> January 2018 at about 2.30 pm, the applicant came home after consuming liquor. The deceased questioned him about the same. Whereupon, it is alleged, that, the applicant assaulted her. That the deceased was crying in her house. It is further alleged that, the applicant took a can containing kerosene, pored it on the person of his wife and ignited it with a matchstick. When Smt.Ashwini Magar was engulfed in flames and started shouting, the people from the neighbourhood gathered at the scene of offence and along with the applicant doused the flames by pouring water. Smt.Ashwini Magar succumbed to the injuries while undertaking treatment at Civil Hospital, Thane, on 26<sup>th</sup> January 2018 at about 11.50 am. During the course of investigation, the applicant came to be arrested on 2<sup>nd</sup> February 2018 and after completion of investigation police have submitted the chargesheet.

4] Perusal of the chargesheet indicates that on 21<sup>st</sup> January 2018 when Smt.Ashwini Magar (deceased) was admitted to the hospital, her first dying declaration was recorded by the police. Wherein, the

deceased has narrated a story of suicidal burns. In a subsequent dying declaration dated 23<sup>rd</sup> January 2018, the deceased has narrated altogether different version and as stated that, the burns suffered by her were caused by the applicant herein by pouring kerosene on her person and igniting it with matchstick. Thus, there are two dying declarations on record with two different causes for receiving burns by the said Smt.Ashwini Magar. As noted earlier, Smt.Ashwini Magar succumbed to injuries on 26<sup>th</sup> January 2018.

5] The applicant is in jail since 2<sup>nd</sup> February 2018, the police have completed investigation and submitted the chargesheet. No fruitful purpose will be served by further keeping the applicant in incarceration and the applicant can be released on bail.

Hence, the following Order:-

- (i) The Applicant shall be released on bail in C.R. No. I-40 of 2018 dated 23/01/2018 registered with Narpoli Police Station, District Thane, on his furnishing P.R. bond of Rs.15,000/- with one or two local sureties in the like amount.
- (ii) After his release from Jail, the applicant shall attend all the dates before the trial Court, unless exempted by the concerned Court.

- (iii) In case of two consecutive defaults, the Prosecution is at liberty to file an application for cancellation of bail.
- (iv) Applicant shall not tamper with the evidence and/or interfere with the process of investigation.
- (v) Application is allowed in the aforesaid terms.

**[A.S. GADKARI, J.]**