

NSC.

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

***CRIMINAL BAIL APPLICATION NO.2260 OF 2019***

|    |                       |               |
|----|-----------------------|---------------|
| 1. | Ramesh Bhimrao Kamble |               |
| 2. | Kamal Bhimrao Kamble  | ...Applicants |
|    | Versus                |               |
|    | State of Maharashtra  | ...Respondent |

Mr.I.A.Shaikh, for the Applicants.

Mr.P.H.Gaikwad-Patil, A.P.P for the Respondent - State.

***CORAM : REVATI MOHITE DERE, J.***

***DATE : 3<sup>rd</sup> OCTOBER, 2019***

**P.C. :**

1. Heard learned counsel for the parties.
2. By this application, the Applicants seek their enlargement on bail in connection with C.R.No.I-201 of 2015 registered with the Turbhe MIDC Police Station, for the alleged offences punishable under Sections 302, 498-A, 506 r/w 34 of the Indian Penal Code.
3. Perused the papers. The applicant no.1 is the husband of deceased – Chaya and applicant no.2, the mother-in-law of Chaya. According to Chaya (deceased), she was married to applicant no.1 in 2007

and was residing with her husband, brother-in-law – Umesh and mother-in-law (applicant no.2). It is stated that co-accused – Umesh was staying in the same house but on the first floor with his wife and son. The incident is alleged to have taken place on 20<sup>th</sup> August, 2015 at around 8.00 p.m. It is alleged by the complainant that her brother-in-law – Umesh and applicant no.2 poured kerosene on her person and brother-in-law – Umesh, thereafter set her ablaze. There are 4 dying declarations. In the 1<sup>st</sup> dying declaration made by the deceased - Chaya on 21<sup>st</sup> August, 2015, she has stated that there was a quarrel between her and her husband i.e. the applicant no.1 as applicant no.1 was drinking alcohol with co-accused – Umesh on the first floor. It is alleged that despite telling her husband (applicant no.1) not to drink alcohol, he did not pay heed and hence she poured kerosene on her person and set herself ablaze. The said dying declaration dated 21<sup>st</sup> August, 2015, is recorded in the presence of the doctor at about 10.10 a.m. by the police officer. The 2<sup>nd</sup> dying declaration dated 21<sup>st</sup> August, 2015 is recorded at 11.45 a.m. before the Executive Magistrate. In the said statement before the Executive Magistrate deceased - Chaya has stated that she poured kerosene on her person as she was angry that her husband was drinking alcohol with co-accused – Umesh. She has stated that applicant no.1 poured water on her person and extinguished the fire. She has also stated that applicant no.1 sustained injuries during the said incident. She has further

stated that co-accused – Umesh and her sister-in-law's husband brought her to the hospital. In her 3<sup>rd</sup> dying declaration dated 26<sup>th</sup> August, 2015, recorded by the police officer, deceased – Chaya, for the first time has alleged that there was a quarrel between her and co-accused, pursuant to which, the applicant no.2 (mother-in-law) and co-accused – Umesh poured kerosene on her person and thereafter co-accused – Umesh, threw a match stick on her person and set her ablaze. She has stated that her husband had gone to answer the nature's call at the relevant time and when he returned, she called out for help, however, he did not help her. The said dying declaration was treated as an FIR. The 4<sup>th</sup> dying declaration dated 27<sup>th</sup> August, 2015 was recorded before the Executive Magistrate and is consistent with the FIR, with respect to the allegations. From a perusal of the statements of some of the witnesses it appears, that the applicant no.2 was not present in the house, at the time of the alleged incident. It also appears that applicant no.1 has sustained serious burn injuries in the said incident i.e. his lower limbs and hands were burned, as a result of which, he could not be arrested till December, 2018 i.e. for almost 3 years. The dying declarations are *prima facie* inconsistent with each other. Whether or not the applicants are responsible for the death of deceased - Chaya, is a matter which will be decided by the trial Court. The applicants are in custody since December, 2018. Investigation is complete and charge-sheet is filed.

4. Considering the aforesaid, the application is allowed on the following terms and conditions:-

**ORDER**

- i) The Applicants be released on cash bail in the sum of Rs. 10,000/- each, for a period of six weeks;
- ii) The Applicants shall within the said period of six weeks, furnish P. R. Bond in the sum of Rs. 10,000/- each with one or two sureties in the like amount;
- iii) The Applicants shall inform their latest place of residence and mobile contact number immediately after being released and/or change of residence or mobile details, if any, from time to time to the trial Court as well as to the concerned Police Station, in writing;
- iv) The Applicants shall not tamper with the evidence or attempt to influence/contact the complainant, witnesses or any person concerned with the case;
- v) The Applicants shall co-operate in the conduct of the trial.

5. The Application is allowed and disposed of in above terms.
6. 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.
7. All concerned to act on the authenticated copy of this order.

***REVATI MOHITE DERE, J.***