

IN THE HIGH COURT OF JUDICATURE OF BOMBAY
BENCH AT AURANGABAD

14 CRIMINAL APPLICATION NO.909 OF 2020
IN CRIMINAL APPEAL NO. 299 OF 2016

CHAYA W/O. BHAUSAHEB BHINGARDIVE
VERSUS
THE STATE OF MAHARASHTRA

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Mr. Saeed S. Shaikh, Advocate for the applicant.
Mr. S.D. Ghayal, A.P.P. for respondent - State.

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CORAM : RAVINDRA V. GHUGE &
B.U. DEBADWAR, JJ.

DATE : 02nd November 2020.

ORDER :

1. The applicant, original accused No.2 is aged 35 years. She has been convicted by the judgment and order dated 08.07.2015 delivered by the learned Additional Sessions Judge, Ahmednagar in Sessions Case No. 220 of 2013 and sentenced to suffer life imprisonment.

2. We have considered the strenuous submissions of the learned Advocate for the applicant and the learned A.P.P. on behalf of the State. The applicant submits that since her mother Kamal, mother-in-law of the deceased Maya, has been released on bail by this Court on 21.06.2016, the present applicant prays for parity and seeks bail during the pendency of the appeal.

3. We have considered the submissions of the respective Counsel and with their assistance, have gone through the record available.

4. There are two dying declarations at Exh. 29 and Exh. 41 which have been proved before the trial Court. The evidence of the Doctor, who examined the victim, indicates that the victim was medically examined and it was noted by the Doctor that the patient is conscious and is oriented to give the statements. Both the statements were recorded on the same day within a space of about 1 hour and 15 minutes.

5. In Exh.29, the deceased has categorically stated that she was in the kitchen on 10.00 a.m. on 14.04.2013. Her three brothers-in-law namely Ashok, Asaram and Sunil, her mother-in-law Kamal and two sisters-in-law, namely Chaya (present applicant) and Savita, came close to her. The mother-in-law Kamal alongwith Chaya and Savita held the deceased by her hands. Thereafter, one by one, Chaya and Savita poured kerosene upon her and the husband of the deceased set her ablaze. In Exh.41, the deceased stated that Chaya was the first person to pour kerosene and Savita followed thereafter. The husband set her on fire. As such, we see no contradiction which would materially affect the

decision of the trial Court or the result / conclusion in this case, at this prima facie case.

6. In the light of the two dying declarations, we have perused the evidence that was recorded before the trial Court. At this prima facie case, we find that there was a strong evidence against Chaya and Savita, as well as the husband and mother-in-law of the deceased. The trial Court has assigned exhaustive reasons in the light of the evidence before it and has convicted three persons with life imprisonment, as Savita died during the trial. On merits, at this prima facie case, we do not find any reason to show sympathy towards the present applicant notwithstanding that she was on bail during trial and is behind the bars since her conviction on 08.07.2015.

7. The learned Advocate for the applicant Chaya claims parity. Chaya's earlier application filed in the year 2016 was rejected by this Court vide order dated 21.06.2016. The mother-in-law Kamal was granted bail by this Court only because she was a senior citizen. She could not tender bail bonds and surety and hence, by an order dated 14.02.2018, this Court reduced the surety amount from Rs. 25,000/- to Rs. 10,000/- only, to enable the release of Kamal who is a

senior citizen. The present applicant is about 35 years of age as per the learned Advocate. We do not find that the said contention of parity deserves any consideration.

8. Prima facie, considering the evidence before us, we do not find that this is a fit case for suspending the sentence and for granting bail to the applicant Chaya. As such, this application is rejected.

(B.U. DEBADWAR, J.)

(RAVINDRA V. GHUGE, J.)

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