

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD**

24 BAIL APPLICATION NO.942 OF 2021

Santosh Eknath Chakre
Age: 37 years, Occu.: Labour (Mason),
R/o. Beside of Indrale School,
Anjali Nagar, Tq. and Dist.Latur. ..Applicant

VERSUS

The State of Maharashtra
Through its Vivekanand
Chauk Police Station, Tq.
and Dist.Latur. ..Respondent

...
Advocate for Applicant : Shri Harshal Prakash Randhir
APP for Respondent : Shri P.G.Borade

...
CORAM : M.G.SEWLIKAR, J.

DATE: 11th October, 2021

PER COURT:-

1. This is an application under Section 439 of the Code of Criminal Procedure for releasing the applicant on bail.
2. Facts in brief are that the deceased Jayabai was the sister of the informant. She was married with Gajanan Eknath Chakre about 18 years before the incident. Since before 4 to 5 years of the incident, the applicant (the brother of husband of the deceased) and the husband of the deceased, Gajanan Chakre were demanding money for construction of house and for

meeting household expenses. On 13th January, 2021 at 06:00 p.m., Ritesh Chakre (son of the deceased) called up on the cell phone of the informant and informed that the deceased was set on fire by his father and the applicant by pouring petrol. On 14th January, 2021 at 09:00 a.m., the informant went to the hospital at Latur and enquired with the deceased about the incident. Thereupon, the deceased told him that on 13th January, 2021 at 04:00 p.m., the deceased was watching Television. At that time, the applicant and husband of the deceased, Gajanan Chakre came to the house, asked her son Ritesh to stay out of the house. Her husband poured petrol on her on the ground of failure of the deceased to bring money for purchasing gold and clothes. It is alleged that the applicant abetted commission of the offence by handing over matchstick to husband of the deceased. Husband of the deceased set her on fire. The deceased jumped into a tank. The deceased sustained 40% burn injuries. She was shifted to the Government Hospital, Latur where she breathed her last on 12th February, 2021. On these allegations, FIR was lodged, on the basis of which Crime No.0118 of 2021 came to be registered with Vivekanand Chowk Police Station, Latur, under Section 302 and 498A read with Section 34 of the Indian Penal Code.

3. Heard Shri Harshal Prakash Randhir, learned counsel for the applicant and Shri P.G.Borade, learned APP for the respondent-State.

4. Shri Harshal Prakash Randhir, learned counsel for the applicant submits that the statement of Medical Officer attending the deceased indicates that the deceased was set on fire by husband of the deceased. He submits that Ritesh was 13 years old at the time of incident. He is a child witness. He has stated the role of the applicant as handing over the matchstick to the husband of the deceased. He submits that testimony of a child witness cannot be accepted without corroboration. Except the statement of child Ritesh, there is no other evidence on record to implicate the applicant.

5. Shri Borade, learned APP for the respondent-State submits that CA report is received which shows that deceased was burnt because of pouring of petrol. He submits that evidence of Ritesh clearly implicates the accused as abettor of murder of the deceased.

6. Charge-sheet is filed. Therefore, further detention of the applicant is not warranted. It is further seen that the

statements of two Doctors viz. Dr.Kajal Kale and Dr.Pranali Gadale have been recorded. Dr.Pranali Gadale was the first person to attend the deceased and record the medical history. She stated in her statement that at the time of the admission, the deceased was fully conscious. While recording history of burns, the deceased stated that her husband set her on fire. Similar is the statement of Dr.Kajal Kale. It is pertinent to note that despite the deceased being alive from 13th January 2021 till 12th February, 2021 i.e. for whole month, no attempt was made by the prosecution to record dying declaration of the deceased. The statement of Ritesh is recorded. It only shows that the applicant had handed over matchstick to the husband of the deceased. He does not implicate the applicant to be the person who set the deceased on fire. Except the statement of child witness Ritesh, there is no other evidence discerning the role of the applicant in the offence. Having regard to this and having regard to the fact that trial is not likely to commence in near future because of Covid-19 situation and the applicant has roots in the society and that he will be available for trial, I am inclined to release the applicant on bail. Hence, the order.

ORDER

- i) Bail Application is allowed.

ii) Applicant be released on P.R.Bond of Rs.25,000/- (Rs. Twenty-five thousand only) with one solvent surety in the like amount, in connection with Crime No.0118 of 2021, registered with Vivekanand Chowk Police Station, Latur, Dist.Latur, under Sections 302, 498A read with Section 34 of the Indian Penal Code.

iii) Bail Application is disposed of.

iv) It is clarified that the observations made in the above order are restricted to the decision of this application only and the trial Court shall not get influenced by the same and can come to its independent conclusion during trial.

(M.G.SEWLIKAR)
JUDGE

SPT