

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

927 BAIL APPLICATION NO.1464 OF 2021

**NIKHIL VILAS MEHETRE
VERSUS
THE STATE OF MAHARASHTRA**

...
Advocate for Applicant : Mr. Kanawade Ajay T.
APP for Respondents/State : Mr. S.B. Narwade
...

**CORAM : M.G. SEWLIKAR, J.
DATE : 13th January, 2022**

PC.:-

Heard.

2. Case of the prosecution in nutshell is that deceased-Pooja was the daughter of the informant. Her marriage with the applicant was performed on 16th February, 2021. Soon after the marriage, the applicant and his relatives started demanding Rupees Two Lakhs for building a house. Deceased-Pooja could not meet this unlawful demand of the applicant and his relatives. Therefore, she was subjected to severe torture. Since this demand was not met, applicant and his relatives set the deceased on fire. Accused-Swapnil Mehetre (brother in law of the deceased) called up the informant and told him that deceased sustained burn injuries due to spilling hot water. When the informant went to the P.M.T. Hospital, Loni he found that the deceased was set

on fire and she was not in a position to speak. Deceased died on 28th July, 2021. On these allegations FIR came to be registered against the applicant under Section 304-B, 498-A, 201, 323, 504, 506 read with Section 34 of the I.P.C.

3. Learned counsel Shri Kanawade for the applicant submits that the deceased had given dying declaration that she sustained burn injuries because of fire place. He submits that she sustained burn injuries because of accidental fire.

4. Learned APP submits that there was a conference call between the deceased, her mother and her sister. During the conference call mother and sister heard applicant beating the deceased. The deceased was screaming. He submits that span of marriage was less than six months. Therefore, presumption under Section 113-A & 113-B arises. He submits that from the totality of the circumstances it shows that the deceased was set on fire.

5. Dying declaration came to be recorded on 26th July, 2021. It was recorded in the presence of the Medical Officer. He has certified that the patient was in a position to give statement.

6. This dying declaration shows that when the deceased was busy in cooking at 9.30 am on 26th July, 2021 on a fire place. Her Saaree caught fire

accidentally because of which she sustained burn injuries. On perusal of the spot panchanama it does not appear that there was any smell of kerosene neither there is any evidence indicating that any inflammatory substance was used in setting the deceased on fire. Therefore, all the circumstances brought on record by the prosecution *prima facie* indicate that it was an accidental burn. In this view of the matter, I am inclined to release the applicant on bail. Applicant has no criminal antecedents. He has permanent residence at Jeurkumbhari, Taluka Kopargaon, District Ahmednagar. He will not flee from justice. Hence the following order is passed:

ORDER

- I) Application is allowed.
- II) Applicant be released on PR bond of Rs.15,000/- with one solvent surety in the like amount, in connection with Crime No.235 of 2021 under Section 304-B, 498-A, 201, 323, 504, 506 read with Section 34 of the I.P.C. with Kopargaon City Police Station, District Ahmednagar on condition that he shall not tamper the prosecution evidence.
- III) These observations are made only for the disposal of this application and the learned trial Court shall not get influenced by these observations and can come to its independent conclusion during trial.

[M.G. SEWLIKAR, J.]