

IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CRIMINAL APPELLATE JURISDICTION

INTERIM APPLICATION NO.839 OF 2022

IN

INTERIM APPLICATION NO.238 OF 2022

IN

CRIMINAL APPEAL NO.61 OF 2022

ALONG WITH

INTERIM APPLICATION NO.238 OF 2022

IN

CRIMINAL APPEAL NO.61 OF 2022

Satyanarayan Madanlal Karva and another ... Applicants / Appellants

Vs.

State of Maharashtra

... Respondent

Mr. Shirish Gupte, Senior Advocate i/b. Mr. R. Sathyanarayanan for
Applicants / Appellants.

Mr. A. A. Palkar, APP for Respondent-State.

**CORAM : S. S. SHINDE &
SARANG V. KOTWAL, JJ.**

DATE : MARCH 17, 2022

P.C. :

. By both the applications, applicants are seeking bail pending the hearing and final disposal of the appeal.

2. The prosecution case which unfolded through P.W.5 - Lalit Ghansyam Sharma, who is the brother of Hanuman Sharma (deceased), as well as through the Dying Declaration of the deceased recorded during the course of investigation is that the deceased Hanuman Sharma had suffered a loss of amount of Rs.15,00,000/- in MCX commodity exchange. According to him, he had lost that money because of applicant No.1. Deceased was demanding that money from applicant No.1. However, applicant No.1 was not responding and was denying to pay to the deceased

the said amount. Therefore, out of frustration, on 21.01.2017, the deceased went to the house of the appellants / applicants and threatened to commit suicide by pouring petrol on himself. It is the case of the prosecution that the appellants / applicants had poured petrol on the deceased and set him on fire. In the said incident, Hanuman Sharma suffered about 72% burns. This incident took place on 21.01.2017 and the deceased succumbed to injuries on 31.01.2017.

3. We have heard Mr. Shirish Gupte, learned senior counsel appearing for the applicants / appellants and Mr. A. A. Palkar, learned APP appearing for the respondent / State.

4. Mr. Gupte, learned senior counsel for the applicants submitted that during the investigation, the appellants / applicants were granted anticipatory bail by a learned Single Judge of this Court by a reasoned order. The applicants have not misused the liberty. However, after the trial was over, they have been convicted and taken into custody since 10.12.2021 i.e. from the date of judgment of the trial Court. He submitted that both the appellants / applicants have also suffered burn injuries. This is not really explained by the deceased in the Dying Declaration or the evidence brought on record by the prosecution. He submitted that the deceased had gone to the house of the appellants is also an important fact.

5. Learned APP opposed this application and submitted that the dying declaration shows the role played by the appellants / applicants. He, therefore, submitted that applications may not be entertained.

6. We have considered the submissions. We have also perused the Dying Declaration which is produced on record at exhibit - 47. The Dying Declaration itself mentions that the deceased had gone to the house of the

appellants / applicants carrying a bottle containing petrol. He himself tried to pour it on his person. Thus, there was no premeditation or intention on the part of the appellants / applicants to commit this offence. *Prima facie*, it appears from the evidence on record that the deceased set himself on fire because appellant No.1 has suffered 10% burn injuries, appellant No.2 has suffered 30% burn injuries and appellant No.1's wife - Rajashree, who was also in the house, has also suffered 30% burn injuries in the said incident. This shows that the incident might not have occurred as mentioned in the Dying Declaration, therefore, there is a scope to believe that the appellants have not committed this offence. However, this can be tested at the time of final hearing of the appeal, which is likely to take a long time to be listed.

7. At this stage, we are of the opinion that applicants / appellants have made out a case for bail during the pendency and final disposal of Appeal No.61 of 2022. Hence the following order:-

O R D E R

- 1) Both the applications are allowed.
 - 2) During the pendency and final disposal of Criminal Appeal No.61 of 2022, applicant No.1 - Satyanarayan Madanlal Karva and applicant No.2 - Manoj Satyanarayan Karva are directed to be released on bail on their furnishing P.R.Bonds of Rs.30,000/- (Rupees Thirty Thousand only) each with one or two sureties each in the like amount.
8. Criminal Applications are disposed of accordingly.

(SARANG V. KOTWAL, J.)

(S. S. SHINDE, J.)