

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

925 BAIL APPLICATION NO.467 OF 2023

SHASHIDHAR MUKUND HOLKAR
VERSUS
THE STATE OF MAHARASHTRA

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Advocate for Applicant : Mr. Gaikawad Pandurang M.,
Mr. Yadav Lal Bahadur.
APP for Respondent-State : Mr. S. B. Narwade.
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CORAM : S. G. MEHARE, J.
DATE : 21.03.2023

PER COURT :-

1. Heard the learned counsel for the applicant and the learned APP for the respondent-State.
2. The deceased was a sister-in-law of the applicant. She has no good terms with her husband. On the day of the alleged incident, the husband of the deceased was at village Bembli. She went there and found that her husband was in *Samaj Mandir*. She questioned him, “why he did not turn up for last 15 days. It is now a Diwali festival, bring the grocery and other articles for Diwali festival”. It has been alleged against the applicant that he brought kerosene with him, poured it on her person and set her to fire.

3. The learned counsel for the applicant would point out that on the date of the alleged statement of the victim, she was unconscious to give statement. She was unconscious since the day of her admission to the hospital. However, her brother is in police department. He managed to get her statement recorded against him. He himself had stated to the police that she had poured petrol on her person and ablaze. There is contradictory material as regards the cause of death of the deceased. The applicant was totally unaware of the incident. But only to rope him in the crime, as the deceased used to go to his home, he has been arraigned as an accused.

4. Learned APP would submit that the cousin brother of the deceased was with her. He has witnessed the incident. The cause of death also supports the prosecution case. C.A. report reveals that the shirt of the applicant was having the residue of petrol. At the time of her recording statement, the doctor endorsed that she was conscious while recording her statement. The offence is serious. Hence, the applicant may not be granted bail.

5. Perused the papers. It reveals that there are inconsistent statement as to the cause of death. The incident happened in the public place. However, there were no independent

witnesses stating that the applicant has poured petrol on the person of the victim and set her to fire. Deceased was silent about the presence of her maternal brother with her when she went to the village and the incident happened. The prosecution did not produce the medical admission papers to find out who admitted her to the hospital and what was the cause of injury. There is apparent the inconsistency that may benefit the applicant. In view of the facts of the case and the material available on record, the Court is of the view that this is a fit case to exercise the discretion under Section 439 of the Cr.P.C. Hence, the following order :

ORDER

- (i) Bail Application is allowed.
- (ii) Applicant **SHASHIDHAR MUKUND HOLKAR** be released on bail on furnishing P.B. and S.B. of Rs.50,000/- (Rupees Fifty Thousand only) with one solvent surety of the like amount, in Crime No.224 of 2022, registered by Police Station Bembli, District Osmanabad, for the offences punishable under Sections 302, 323 read with

Section 34 of the IPC, on the condition not to tamper with the prosecution witnesses.

(S. G. MEHARE, J.)

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vmk/-