

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

BAIL APPLICATION NO.875 OF 2023

BALIRAM RAMBAU ICHKE
VERSUS
THE STATE OF MAHARASHTRA

...
Advocate for Applicant : Mr. Mahesh P. Kale, Mr. Sharad S. Solanke
APP for Respondent : Ms. V. N. Patil Jadhav
...

CORAM : S. G. MEHARE, J.

DATE : 07-07-2023

PER COURT :-

1. Heard the learned counsel for the applicant and the learned A.P.P. for the respondent/State.
2. The applicant is seeking bail in C.R.No.200 of 2022 registered with Wadwani Police Station, District Beed, for the offences punishable under Section 302 of the Indian Penal Code.
3. The learned counsel for the applicant submitted that it was a natural death. Immediately after the incident the applicant took the deceased to the hospital and admitted her there. The story of accident was also narrated by the neighbour to the hospital. The applicant himself informed the parents of the victim. His conduct was natural. He did not flee away from the spot of the incident. The other circumstances also support the case of accidental death.

The investigation has been completed. Hence, he may be granted bail.

4. The learned A.P.P. would submit that the statement of the deceased given to the police before her death indicates the acts of the applicant. She has categorically stated against the applicant that he poured diesel on her person and set her to fire. Her statement under Section 161 of the Code of Criminal Procedure corroborates her cause of death. She did not state that the applicant took her to the hospital. It is a strong evidence against the applicant. She died of burn injuries. It was a case of murder. Hence, he may not be granted bail.

5. Apart from the above, the learned counsel for the applicant argued that the police recording her statement under Section 161 of the Cr.P.C. did not verify her physical and mental condition to give statement, from the medical officer. She died after five days of the incident. During those five days, the police did not attempt to record her statement from the Special Executive Magistrate. Therefore, her statement cannot be considered as a statement as to the cause of her death.

6. While considering the bail application, the Court has to consider *prima facie* material. Whether she was in a condition to make a statement or not, is a matter of evidence before the trial court. However, *prima facie* material against the applicant is

available. The deceased specifically alleged against the applicant that he poured diesel on her person and set her on fire. Barely dying after five days may not lessen the *prima facie* evidential value of her statement as to the cause of death. The offence is serious. A young girl of 22 years has lost the life.

7. For the above reasons, the bail application stands dismissed.

(S. G. MEHARE)
JUDGE

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