

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD
BAIL APPLICATION NO.1502 OF 2023**

Raju S/o. Anna Pawar,
Age: 25 years, Occ: Labourer,
R/o. Mangrul (Bk) Camp,
Taluka Manwat, District Parbhani ..Applicant

Versus

The State of Maharashtra
Through Police Station Officer,
Manwat Police Station, Manwat,
District Parbhani ..Respondent

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Mr. S. S. Rathi, Advocate for the Applicant.
Mrs. P. V. Diggikar, APP for Respondents-State.

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CORAM : S. G. CHAPALGAONKAR, J.
DATE : 30th AUGUST, 2023.

PER COURT:-

1. Heard learned counsel for the applicant and learned APP for the State.
2. The applicant is seeking bail in Crime No.064/2023 registered with Manwat Police Station, Dist. Parbhani for the offence punishable under 302, 307, 498-A, 504 r/w 34 of the Indian Penal Code.
3. The investigation was set in motion on the basis of the information given by one Gangubai Limbaji Pawar, who alleges that her daughter was harassed by in-laws on account of the demand of Rs.1,00,000/-. It is further alleged that on 24.02.2023 she received telephonic information that her daughter Aarti has been killed by her in-laws by pouring diesel and setting her on fire. The FIR states that the Aarti had suffered severe burn

injuries and she was not in a position to speak. Pursuance to the aforesaid information, offence was registered initially for under Section 307 of the Indian Penal Code, however on death of the Aarti Section 302 of the Indian Penal Code is added. It appears that, the applicant and other accused persons were arrested on 01.03.2023.

4. Mr. Rathi, learned Advocate appearing for the applicant would submit that the FIR itself indicate that the deceased Aarti had suffered severe burn injuries and she was not in a position to talk. By inviting attention of this Court to the statement of witnesses, he would submit that immediately after incident, only presence of husband of the deceased i.e. Shridhar is recorded. He would submit that there is no quarrel on the point that the applicant has separate residence. He would submit that on the basis of the statement of one Laxman Rustum Kale recorded under Section 164 of the Cr.P.C, the applicant has been falsely implicated. He would further invite attention of this Court to 161 statement of the same person, which is inconsistent with the statement recorded under Section 164. He would further invite attention of this Court to the orders passed by this Court, whereby co-accused against whom similar role is attributed have been enlarged on bail. Therefore, he seeks the same treatment to the applicant.

5. The learned APP however opposes the prayer. She would invite attention of this Court to paragraph no.6 of the statement of Laxman Rustum Kale to contend that the deceased in her dying declaration before the said witness clearly mentioned the role of all the accused. She would further submit that the FIR

indicates the harassment to the deceased at the hands of the in-laws including applicant. Therefore, she urges to reject the application.

6. Having considered the submissions advanced, apparently the allegation in the FIR would show that no specific role is attributed against the applicant. The entire case of the prosecution is based on the alleged dying declaration given by the deceased before the Laxman Rustum Kale that too in his statement which is recorded after 12 days of the incident. Pertinently, Section 161 statement of the same witness shows that when he reached to the hospital, the deceased was not in a position to speak. In that view of the matter, improved version introduced after 12 days of the incident apparently unbelievable.

7. This Court while considering the bail plea of the accused Durga and Sangita in Bail Application No.1294/2023 considered all the aforesaid aspects and granted bail to them. The role attributed to those accused persons and the applicant is one and the same. Even the material relied upon by the prosecution is the same. The learned APP fairly admits that the role attributed to the accused, who are enlarged on bail is similar to that of the present applicant. In that view of the matter, by applying principles of parity, case is made out to grant bail subject to certain conditions. Hence, the following order:

ORDER

- (i) Bail Application is allowed.
- (ii) The applicant, Raju Anna Pawar be released on bail in Crime No.064/2023 registered with Manwat Police Station, Dist. Parbhani for the offence punishable under 302, 307, 498-A, 504 r/

w 34 of the Indian Penal Code on furnishing P.B. and S.B. of Rs.50,000/- (Rs.Fifty Thousand only) each on following condition:

- a. The applicant shall not tamper with the prosecution evidence in any manner.
 - b. The applicant shall attend the trial on each and every effective date.
- (iii) Application is disposed of.

(S. G. CHAPALGAONKAR)
JUDGE