

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD
BAIL APPLICATION NO.1586 OF 2023**

SHAMRAO ANNA PAWAR
VERSUS
THE STATE OF MAHARASHTRA

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Mr. Anand Dale h/f Mr. Swapnil S. Rathi, Advocate for the Applicant.

Mr. S. B. Narwade, APP for Respondents-State.

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**CORAM : S. G. CHAPALGAONKAR, J.
DATE : 12th SEPTEMBER, 2023.**

PER COURT:-

1. By this application, the applicant seeks regular bail in connection with Crime No.64/2023 registered with Manwat Police Station, Dist. Parbhani for the offence punishable under Sections 302, 498-A, 504, 34 of the Indian Penal Code.

2. 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.

3. The learned Advocate appearing for the applicant would submit that the deceased died on account of burn injuries. She was not in a position to talk. The statements of the witnesses which are recorded immediately after the incident show that only husband of the deceased namely Shridhar was present at the time of incident. He would also point out that the applicant had separate residence. He would point out that there is material inconsistency in the statements of the witnesses recorded under Section 161 and 164 of the Criminal Procedure Code. He would submit that accused nos.3, 4 and 5 are already released on bail, therefore, even applying principles of parity, the applicant would be entitled for grant of bail.

4. The learned APP opposes the application. He would submit that there was a recovery of clothes of the applicant. The report of Chemical Analysis is received. Article No.8 appears to be the trouser on the person of the applicant that shows positive result as regards to the presence of the diesel. He would, therefore, submit that there is material against the applicant to link him with the guilt.

5. Having considered the submissions advanced, it is apparent that no specific role is attributed to the applicant in the FIR. Even the statement of the witnesses are omnibus. The alleged dying declaration of the deceased before Laxman Rustum Kale appears to have been recorded after 12 days, which is inconsistent with his previous statement recorded under Section 161 of the Criminal Procedure Code, wherein he states that the deceased was not in a position to speak. The improved version introduced after 12 days, is unreliable.

6. Pertinently, this Court while dealing with Bail Application Nos.1294/2023 and 1502/2023 has considered the aforesaid aspects and granted bail to those applicants. The material relied against the present applicant is similar to that co-accused persons, who are already enlarged on bail. In that view of the matter, the case is made out for grant of bail. Hence, the following order:

ORDER

- (i) Bail Application is allowed.
- (ii) The applicant, Shamrao Anna Pawar be released on bail in Crime No.64/2023 registered with Manwat Police Station, Dist. Parbhani for the offence punishable under Sections 302, 498-A, 504, 34 of the Indian Penal Code on executing 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