

SA Pathan

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION**

BAIL APPLICATION NO.1093 OF 2023

Bharat Pandurang Tayshete	... Applicant
V/s.	
The State of Maharashtra	... Respondent

Ms. Tanvi Tapkire, for the Applicant.

Mrs. Rutuja Ambekar, APP for State-Respondent.

CORAM : AMIT BORKAR, J.

DATED : JULY 7, 2023

P.C.:

1. This is an Application filed under Section 439 of the Code of Criminal Procedure, 1973, (for short 'Cr.P.C.') in connection with C.R. No.246 of 2022 registered with Radhanagari police station, Kolhapur for offences punishable under Sections 306, 116, 504 of the Indian Penal Code (for short 'IPC').

2. According to the prosecution, the applicant/accused is husband of the informant, she residing with him. The applicant/accused was addicted to alcohol verbally abused the informant, due to which she was harassed. The applicant by consuming liquor was behaving in riotous manner in the village and in the house, abusing to the people in the village and also abusing to the informant and quarreling with her. Hence, complainant left the house of applicant/accused on 31 October

2022. Thereafter applicant/accused brought back the complainant on 6 November 2022 to his house by promising that he will not consume liquor in future, but in vain. Thereafter also the applicant by consuming liquor behaving in riotous manner in the village and house and abusing to the family members and other people from the village.

3. On 10 November 2022 at about 11 am applicant/accused came to the house by consuming liquor, on enquiry with him by informant about the same, the applicant/accused abused her and quarreled with her and thereafter, at about 2:00 pm due to harassment by applicant, the informant set herself on fire by pouring kerosene on her person.

4. After the incident the informant during treatment died due to burn injuries on 16 November 2022 at about 22:30 in the hospital. The investigation agency, therefore, evoked Section 306 of IPC. The applicant was arrested on 17 November 2022. The investigating agency completed investigation and filed charge-sheet against the applicant. The applicant filed application under Section 439 of Cr.P.C. seeking bail before learned Sessions Judge which came to be rejected by order dated 10 March 2023.

5. On perusal of the charge-sheet, it prima facie appears that the applicant is addicted to liquor. According to prosecution, he was constantly harassing the informant. He assured the informant that he will not drink alcohol in future. However, before the incident, the informant found that the applicant/accused was continued with consumption of liquor. According to prosecution

proximate cause for commission of suicide. So quarrel took place at 11:00 am on the day of incident. The informant set herself on fire by pouring kerosene on her person at 2:00 pm.

6. On over all considering of material in the form of charge-sheet, it appears that prima facie insufficient material to conclude that the informant was left with no other option to commit suicide. The proximate cause as per prosecution is not of such nature which can be treated as proximate cause for commission of suicide. The material to indicate inducement under Section 107 of IPC is prima facie insufficient. However, sufficiency of material and its veracity needs to be tested during trial. The applicant has made out a prima facie case. Hence, following order is passed:

- a) The application is allowed.
- b) The applicant be released on bail in C.R. No.246 of 2022 registered with Radhanagari police station, Kolhapur for offences punishable under Sections 306, 116, 504 of IPC, on furnishing P.R. Bond in the sum of Rs.50,000/- with one or two sureties in the like amount.
- c) The applicant shall remain present before the trial Court on each date unless exempted by the Sessions Court.
- d) The applicant shall mark his attendance with the concern police station on first Saturday of each month between between 11:00 am to 2:00 pm till conclusion of trial.
- e) The Applicant shall not tamper with the evidence of

the prosecution and shall not influence the witnesses.

7. The Bail Application stands disposed of in above terms. No costs.

(AMIT BORKAR, J.)