



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
NAGPUR BENCH : NAGPUR

CRIMINAL APPLICATION (BA) NO. 284 OF 2024

Kishor s/o Rajaram Chandekar

Vs.

State of Maharashtra, Through Police Station Officer, Yavatmal City,
Yavatmal

Office Notes, Office Memoranda of Coram,
appearances, Court's orders of directions
and Registrar's orders

Court's or Judge's orders

Mr. N. S. Khandewale, Advocate for applicant.

Ms. H. N. Prabhu, APP for respondent/State.

CORAM : URMILA JOSHI-PHALKE, J.

DATED : 23/04/2024

1. The applicant came to be arrested on 03.09.2023 in connection with Crime No.833/2023 registered with Police Station Yavatmal City, Yavatmal for the offences punishable under Sections 302, 307, 498-A, 201 read with Section 34 of the Indian Penal Code (hereinafter referred to as 'the IPC').

2. The accusation against the present applicant is on the basis of statement of the deceased recorded on 02.09.2023 alleging that her marriage was performed with the present applicant in the year 2008. She is having two children from the said wedlock. As per her allegation, she was ill-treated by the present applicant for domestic reasons as well as the present applicant was having illicit relations with one lady who was working in his office. It is alleged that though she conveyed the present

applicant on several occasions, but he was not paying any heed towards it. On 10.07.2023, she poured kerosene herself and set her on fire. On the basis of the said report, police have registered the crime initially under Sections 307 and 498-A of the IPC. Subsequently, she succumbed to the death therefore, offence is registered under Section 302 of the IPC.

3. Learned Counsel for the applicant submitted that the alleged incident has taken place on 10.07.2023, immediately she was shifted to the hospital wherein her statement was recorded by the police. She narrated that there was a quarrel between her and husband on a trifle reason, due to which in annoyance, she poured kerosene on herself and set herself on fire. She was treated in the hospital for the said injury. She was shifted in the hospital by the present applicant and after treatment she was discharged from the hospital on 21.08.2023. After discharged from the hospital, she went to the house of her parents and after thought this false FIR is lodged against the present applicant on 02.09.2023 i.e. after the delay of 20 days. There is no explanation as to the said delay. He submitted that the two small children are staying at the mercy of their grand parents. There is nobody to look after the children. Their education is also affected as the applicant is incarcerated in jail. He further submitted that now investigation is already completed and

charge-sheet is filed. In view of that, he be released on bail.

4. Learned APP strongly opposed the said application on the ground that the statement of son of the deceased discloses that there was no cordial relations between the present applicant and the deceased and on the day of incident also there was quarrel between them and in a fit of anger the present applicant poured kerosene on her and set her on fire. Learned APP submitted that considering the *prima facie* case i.e. the statement of the deceased recorded by the police and the statement of the son of the deceased shows the involvement of the present applicant. Considering the gravity of the offence, the application deserves to be rejected.

5. Having heard the learned Counsel for the applicant and learned APP for the State. Perused the recitals of the FIR and also perused the earlier statement recorded by the police, on the basis of which general diary entry was taken. The first statement of the deceased was recorded on 10.07.2023 wherein she has stated that on 10.07.2023 at about 8.30 p.m. there was a quarrel between her and the present applicant on account of domestic reasons and in annoyance, she poured kerosene on her herself and set her on fire. She sustained a burn injury, her husband i.e. present applicant extinguished the fire and she was admitted

in the hospital. Thereafter her statement was recorded by the investigating agency. The general diary entry was taken on the basis of the said statement. She was admitted in the hospital till 21.08.2023. After discharged from the hospital, she went at her parents house and thereafter, after 20 days this FIR came to be lodged. As per the recitals of the FIR, on the day of incident i.e. 10.07.2023 the present applicant has poured the kerosene on her. Except the statement of the son of the deceased, there is no other statements substantiating the condition that the present applicant has poured kerosene on her. The history narrated before the Medical Officer also shows that she sustained a burn injury in the house and therefore, she was admitted. As far as the dying declarations which are recorded on 10.07.2023 and 02.09.2023 are concerned, which are completely contradictory, however which is the genuine dying declaration is a matter of evidence. At this stage, considering the two contradictory statements given by the deceased and various statements are recorded during the investigation and the delay which is caused in lodging the FIR creates the doubt about the prosecution case. At this stage, it would not be appropriate to comment on the nature of the evidence. However, considering the investigation is already completed, charge-sheet is already filed, further incarceration of the present applicant is not required, in view of that, the application deserves to be allowed by imposing

certain conditions. Accordingly, I proceed to pass following order.

ORDER

- (i) The application is allowed.
- (ii) The applicant **Kishor s/o Rajaram Chandekar** shall be released on bail on executing PR bond in the sum of Rs.25,000/- with one solvent surety in the like amount, in connection with Crime No.833/2023 registered with Police Station Yavatmal City, District Yavatmal for the offences punishable under Sections 302, 307, 498-A, 201 read with Section 34 of the Indian Penal Code.
- (iii) The applicant shall not enter into the vicinity of village Shegaon (Khurd), Taluka Warora, District Chandrapur, till culmination of the trial.
- (iv) The applicant shall not induce, threat or promise any witnesses who are acquainted with the facts of the case.

6. The application is disposed of.

(URMILA JOSHI-PHALKE, J.)