



**IN THE HIGH COURT OF JUDICATURE OF BOMBAY
BENCH AT AURANGABAD**

**CRIMINAL APPLICATION NO. 799 OF 2025
IN APEAL/143/2025**

Pravin Vasant Rao Tingare

VERSUS

The State Of Maharashtra

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Mr. V.D. Sapkal, Senior Advocate a/w Mr. R.N. Patil i/b. Mr. S.R.
Sapkal, Advocate for Applicant
Mrs. Uma Bhosale, APP for State

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**CORAM : NITIN B. SURYAWANSHI AND
MANJUSHA DESHPANDE, JJ.**

DATE : 09th MAY, 2025

ORDER :

1. The applicant-accused is convicted under Section 302 of Indian Penal Code, by learned Additional Sessions Judge, Latur in Sessions Case No. 205/2022, and is sentenced to suffer imprisonment for life. Appeal of the applicant is admitted. This application is filed for suspension of sentence of imprisonment, during the pendency of appeal.

2. Heard learned Senior Advocate for applicant and learned APP for State. With their assistance we have perused the evidence brought on record by the prosecution.

3. Learned APP strenuously opposed the application stating that dying declaration is reliable. She submits that petrol residues were found on the clothes of accused. Therefore, the Trial Court is justified in convicting him and this is not a fit case to grant bail.

4. The incident has taken place on 27.08.2022 and on the same day deceased was admitted in the hospital. Her dying declaration (Exhibit-104) is recorded by PW12. In the dying declaration deceased has alleged that applicant poured petrol on her when she was heating water on gas for bathing. Due to the petrol, flames of the gas flared up and she received burn injuries. Her mother, father and brothers were present along with her.

5. Dying declaration (Exhibit-104) is recorded by PW12. In cross he has admitted that he heard the dying declaration of Archana and dictated it to police constable Pravin Dudhbhate, who has taken it down. Prosecution has not examined police constable Pravin Dudhbhate. In dying declaration deceased has not disclosed that applicant has received burn injuries in the incident. At the time of her admission in the hospital, deceased has given history that while cooking she received burn injuries.

Mother of Archana and her brothers have not supported the prosecution case. Though Archana was admitted in the hospital for period of more than one month, her dying declaration was not recorded by Executive Magistrate. As per the prosecution case there were burn injuries on the feet of Archana. Her right great toe impression is taken on dying declaration (Exhibit-104), which shows clear ridges and curves. This is also one of the suspicious circumstance which creates doubt about the dying declaration. All these circumstances create serious doubt about the reliability of the dying declaration (Exhibit-104).

6. It is the claim of applicant that Archana caught fire accidentally and while extinguishing her fire he received burn injuries. Said defence is corroborated by history given by the applicant in the hospital, which is reflected in medical report (Exhibit-86).

7. For the aforestated reasons we are of the prima facie view that Trial Court has erred in appreciating the evidence on record and has wrongly convicted the applicant, by relying on dying declaration (Exhibit-104). Applicant has therefore good case on merits and he has good chances of success in the present appeal. This matter is not likely to come up in near

future for final hearing. We therefore are inclined to allow the present application. Hence, the following order:

ORDER

- (i) Criminal Application is allowed.
- (ii) Pending the hearing and final disposal of present appeal, substantive sentence of imprisonment imposed on applicant by learned Additional Sessions Judge, Latur in Sessions Case No. 205/2022 is hereby suspended.
- (iii) Applicant be released on bail on executing Personal Bond of Rs. 15,000/- with one surety in the like amount.

(MANJUSHA DESHPANDE, J.)

(NITIN B. SURYAWANSHI, J.)