

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

**INTERIM APPLICATION NO. 4811 OF 2024
IN
CRIMINAL APPEAL NO. 1274 OF 2024**

Maruti Ramchandra KolapeApplicant
Versus
State of MaharashtraRespondent

Mr. Pradeep K. Pardeshi - Advocate for the Applicant
Mr. Arfan Sait - APP for the Respondent-State.

**CORAM : SARANG V. KOTWAL &
S.M. MODAK, JJ.**

DATE : 13th JANUARY 2025

P.C. :

1. This is an application for bail, pending appeal. The appeal is already admitted. The Applicant is in custody since 06.03.2017. The Applicant was the original accused in Sessions Case No. 97 of 2017 before Additional Sessions Court, Sangli. The learned Judge vide the judgment and order dated 07/07/2023 convicted the Applicant for commission of offence punishable under Section 302 of the Indian Penal Code and

sentenced him to suffer life imprisonment and to pay fine of Rs. 5,000/- and in default to suffer rigorous imprisonment for one month.

2. The incident is dated 22.02.2017. The prosecution case is that the Applicant poured kerosene on his wife and set her on fire. She suffered 60% burn injuries and succumbed to injuries.

3. Learned counsel for the Applicant submitted that the case is based purely on circumstantial evidence. There are no eye-witnesses. The prosecution has not established the motive. The dying declaration is doubtful. Therefore, the Applicant deserves to be released on bail.

4. Learned APP opposed this submission. According to him, there is a written dying declaration and also an oral dying declaration made by the deceased. He submitted that there is sufficient material against the Applicant.

5. We have considered the submissions. PW No. 10-Dr. Arun Tandale has deposed that the deceased had suffered 60% burn injuries.

PW No. 4 – Sanjay Sadashiv Vibhute, Tahsildar has deposed that the medical officer had told that patient was conscious and was in a position to give her statement. The deceased narrated that her husband had set her on fire by pouring kerosene. Accordingly, he took down the written dying declaration.

PW No. 5-Dr. Priya Gupta has deposed that she had told to PW No. 4 that the patient was conscious and was in a position to give her valid statement. She had put her endorsement on dying declaration.

6. Apart from the written dying declaration, there is evidence of PW No. 2 Rajesh Popat Arjun, who was having a stationery shop near the place of incident. At around 12.45 p.m., he heard shouts from the applicant's house. The deceased came out of the house and was shouting that somebody should save her, as her

husband had poured kerosene on her and set her on fire. This witness had informed the Police. Importantly, this witness had seen the Applicant running away in front of this witness's shop.

7. Thus, the conduct of the Applicant, the written dying declaration, and the oral dying declaration are the incriminating circumstances against the Applicant. At this stage, it is not possible to hold that these circumstances are not genuine. In this view of the matter, no case for grant of bail pending of appeal is made out. Therefore, application is rejected.

(S.M. MODAK, J.)

(SARANG V. KOTWAL, J.)