

Amberkar

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

BAIL APPLICATION NO. 863 OF 2024

Bhole Vishwanath Upadhyay

.. Applicant

Versus

State of Maharashtra

.. Respondent

.....

- Mr. Sandeep R. Karnik, Advocate (appointed) for Applicant
- Ms. Megha S. Bajoria, APP for State

.....

CORAM : MILIND N. JADHAV, J.

DATE : MARCH 6, 2025

P. C.:

1. Heard Mr. Karnik, learned Advocate (appointed) for Applicant and Ms. Bajoria, learned APP for State.

2. Present Application is received through jail. It has been converted into a Bail Application and registered accordingly and placed before me. Applicant stands indicted for the offence punishable under Sections 302 and 307 of IPC for allegedly assaulting his wife by pouring kerosene on her body and setting her on fire. The victim succumbed to her injuries five days after recording her dying declaration which *prima facie* implicates the Applicant.

3. Mr. Karnik would persuade the Court to consider the sole ground of long incarceration of more than 5 years pending trial for seeking release of Applicant on bail. He would submit that the roznama appended to the Application indicates that the chargesheet

was filed in April 2020, wherein 21 probable witnesses have been enlisted for examination by the prosecution, however till date trial has not commenced. He would urge the Court to consider the fact that at the time of the alleged incident, record *prima facie* indicates that Applicant was in an inebriated and intoxicated state and had an altercation with his wife. He would submit that the alleged incident occurred at the spur of the moment due to the quarrel between them and could not have been premeditated. He would submit that, that apart the ground of prolonged incarceration may be taken into consideration by the Court for grant of bail.

4. The roznama appended to the Application in fact corroborates the submissions of Mr. Karnik and reflects that for the past three years, the matter has been listed for evidence before the Court but has been only adjourned from time to time.

5. Learned APP is directed to take cognizance of the above submissions and apprise the Court about the present status of trial on the next adjourned date.

6. Considering the aforesaid submissions, prolonged incarceration of the Applicant and the merits of the submissions made by Mr. Karnik, this Court shall hear the present Application on the next adjourned date, which shall be noted by the prosecution.

**7. Stand over to 26th March, 2025. To be shown on
Supplementary Board.**

Amberkar

[MILIND N. JADHAV, J.]

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