

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

**INTERIM APPLICATION NO. 1245 OF 2024
IN
CRIMINAL APPEAL NO. 453 OF 2024**

Banarasi Dharmaj Vishwakarma

..Applicant

Versus

The Union Territory of
Dadra and Nagar Haveli & Anr.

..Respondents

Ms. Farhana Shah for Applicant.

Mr. Shantanu Thorat h/f. H. S. Venegavkar for U.T./Respondent
No.1.

Smt. M. M. Deshmukh, APP for State/Respondent.

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

DATE : 8 JANUARY 2025

PC :

1. This is an application for bail pending appeal. The Applicant was convicted by the learned Sessions Judge, Dadra and Nagar Haveli, vide his Judgment and order dated 01.04.2023 passed in S.C.No.17 of 2021. He was convicted U/s.302 of the I.P.C. and was sentenced to suffer R.I. for life and to pay a fine of Rs.15000/- and in default to suffer S.I. for one year. He was

acquitted from the charges U/s.304-B and 498-A of the I.P.C.

2. The prosecution case is in respect of suspicious death of the applicant's wife. The prosecution case is that, on 24.09.2015 at around 2:30a.m. to 3:00a.m. in the early hours the applicant poured kerosene on his wife and set her on fire. Thus, he committed her murder.

3. Learned counsel for the Applicant submits that the case is based on circumstantial evidence. There are no eye witnesses. Even the dying declaration is not there. She submitted that the applicant is in custody since 18.10.2015.

4. We have considered these submissions and we have perused the depositions annexed to this application. PW-1 who was the father of the deceased deposed about the harassment caused to the deceased by the applicant and his family members for demand of money. PW-2 Dr. Ramlal Badole had conducted the postmortem examination. He had noted that the deceased had died as a result of 100% burn injuries. There is another important witness PW-5 Manoj Yadav. He has deposed that the applicant

came to his house at 3:00a.m. on 24.09.2015 and told him that the applicant's wife suffered burns. The applicant further told him that, it was because of the fire caused by a mosquito coil. This witness went to the applicant's house and found that the applicant's wife was lying in burned condition. This witness arranged to call for the ambulance and took her to the hospital.

5. From the evidence on record it is apparent that the offence had taken place at odd hours after midnight and only the applicant and his wife were in the house. Therefore, learned Judge has rightly taken recourse to Section 106 of the Evidence Act. The applicant has not explained the circumstances. The conduct of the applicant is also not natural. If the wife had caught on fire, as a natural conduct, he should have raised the shouts and called the neighbours for help. Instead of that, he went to PW-5 after the deceased had suffered almost 100% burn injuries.

6. At this stage, there is sufficient material against the applicant for denial of bail pending appeal. Therefore, we are not inclined to release the applicant on bail. However, the applicant is

in custody since 18.10.2015.

7. Therefore, the Appeal be added to the final hearing board commencing from 17.02.2025.

8. The Registry shall ensure that, at that time, the paper-books are ready and served on the applicant's appointed counsel.

9. The Application is rejected in the aforesaid terms.

(S. M. MODAK, J.)

(SARANG V. KOTWAL, J.)