

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

**INTERIM APPLICATION NO.3802 OF 2024
IN
CRIMINAL APPEAL NO.1035 OF 2024**

Mr.Sharad Bajrang Salunkhe

Age : 40 Years, Occupation : Hotel Waiter,
Residing at : At Post : Rajapuri, Taluka and
District : Satara.

...Applicant

Versus

The State of Maharashtra

(At the instance of Satara Taluka
Police Station, District : Satara)

...Respondent

Mr.Ramanik P. Pawar–Advocate for Applicant.

Mr.B.V.Holambe–Patil–APP for Respondent–State.

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

DATE : 21st JANUARY 2025

P.C. :

1. This is an Application for bail during pendency of
the Applicant's Appeal No.1035 of 2024.

2. The Applicant was convicted by the learned
Sessions Judge–Satara vide his judgment and order dated 13th
August 2024 for commission of the offence punishable under
Section 302 of the Indian Penal Code, 1860 (“IPC”). The

Applicant was sentenced to suffer rigorous imprisonment for life, besides imposition of the fine of Rs.5,000/- (Rupees Five Thousand).

3. The incident occurred on 11th September 2019. The prosecution story is, that the Applicant who was the grandson of the deceased–Gitabai was unhappy as according to him, that Gitabai was not preparing tasty food. Therefore, he poured kerosene on her person and set her on fire. The neighbours came to her rescue and with the help of others, took her to the hospital. Her statement was recorded by the Police Head Constable in the presence of doctor. The FIR was lodged and investigation was carried out. The Applicant was arrested on the same date. Since then, the Applicant is in custody.

4. During trial, the prosecution examined mainly three witnesses as PW No.4, PW No.6 and PW No.7 as the eye-witnesses to the incident. Out of them, PW No.6 and PW No.7 were declared as “*hostile witnesses*”. PW No.4 was not declared “*hostile witness*”. He was Satish Salunkhe. He has stated, that on 11th September 2019, at about 5.00 p.m., the incident occurred in the Applicant’s house. At about 5.30 p.m., he heard Gitabai’s shouts. He rushed there. He saw, Gitabai had caught

fire. The Applicant was standing at the door of the house. He was holding a matchbox. PW No.4 then called others and helped Gitabai to reach hospital. They extinguished the fire by pouring water on Gitabai. He has deposed, that she narrated how the incident took place. She told him, that the Applicant poured kerosene on her and set her on fire, because according to him, she did not cook the food properly. However, in the cross-examination, he gave answers favourable to the defence to the extent, that he deposed that, when they entered Gitabai's house, she was unconscious and was not able to speak. In other words, he contradicted his own version about the "*oral dying declaration*" but the other part of the evidence was not shaken.

5. Apart from this witness, there is an important witness i.e. PW No.11–Dr.Manoj Nimbalkar. He had seen that many persons had gathered around the Applicant's house. The Applicant was not allowing others to enter the house. He said, that he had set his grandmother on fire. This witness had accompanied Gitabai in the ambulance to the hospital. He deposed, that Gitabai told him that there was a quarrel between her and the Applicant and during that quarrel, the Applicant committed this offence. Apart from that, there is a

“dying declaration” in the form of FIR. In that statement, which is recorded by PW No.8–Dipak Barge–Police Head Constable, she had narrated the same incident. PW No.8 has deposed, that he recorded that statement after seeking an opinion of the doctor. All these are strong circumstances.

6. Learned APP relied on the evidence of the extra-judicial confession, the dying declaration and the direct evidence of PW No.4–Satish Salunkhe.

7. Learned counsel for the Applicant submitted, that the eye-witnesses have not supported the prosecution case. The *“dying declaration”* which is treated as FIR was recorded after four hours, the evidence shows that there were other relatives surrounding her before her *“dying declaration”* was recorded. But, at the time of actual recording of *“dying declaration”*, all of them were asked to go outside. That would indicate that those witnesses had tutored the deceased. There was a family dispute regarding the property and therefore, the Applicant was targeted by the other family members.

8. All these points do not really make a dent in the prosecution case. There is a *“written dying declaration”* in the

form of F.I.R., and there is “*oral dying declaration*”. The evidence shows, that the Applicant was standing at the door and was not allowing anyone to go to the rescue of his grandmother. The Applicant has not made out any case for grant of bail. Hence, Application is rejected.

9. In view of that, the Interim Application stands disposed of.

(S.M. MODAK, J.)

(SARANG V. KOTWAL, J.)