

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

CRIMINAL BAIL APPLICATION NO.2683 OF 2021

Madhukar Yuvraj Magang, Age 28 years,
Occ. Labourer, R/o.Memanwadi, Mirwadi,
Tal.Daund, District Pune.

Applicant

versus

The State of Maharashtra

Respondent

Adv.Sana Raees Khan, Advocate for Applicant.
Mr.M.G.Patil, APP, for State.

CORAM : PRAKASH D. NAIK, J.

DATE : 19th October 2022

PC :

1. The applicant is seeking bail in C.R. No.318 of 2019 registered with Yavat Police Station, Pune (Rural) for offences under Sections 307, 323 of Indian Penal Code.

2. The case of prosecution is that on 8th April 2019 the applicant-accused was under influence of liquor. He picked up quarrel with complainant and abused her. He was suspecting her character. He poured kerosene on the person of complainant and threw lighter on her body. Her clothes were burnt. The complainant embraced the applicant-accused. He left the house. She was taken for treatment. She died on 14th April 2019. Applicant was arrested. On completing investigation charge sheet was filed.

3. Applicant had preferred application for bail before the Court of Sessions. The said application was rejected by order dated 31st July 2020.

4. Learned advocate for applicant submitted that applicant has been falsely implicated in this case. The marriage between applicant and deceased was performed about eight years ago. Out of wedlock there are two minor children. Applicant had lodged complaint against deceased to Human Rights Commission complaining about her conduct. The deceased used to frequently visit her parental home. On 8th April 2019 there was quarrel between applicant and the deceased. To avoid further altercation applicant left the house. Within short time the applicant heard shouts of the deceased and entered the house and saw that deceased was on fire. The applicant tried to extinguish the fire. It was not successful. Applicant with his brother and other family members tried to pour water on the deceased. After fire was extinguished, the deceased was taken to hospital for treatment. Treatment was also given to applicant. The statement of applicant was recorded. Statement of mother of deceased was recorded. Applicant was admitted in the hospital for treatment for injuries suffered by him while extinguishing fire. The deceased succumbed to the burn injuries. Applicant was discharged from hospital. Applicant was arrested on 26th August 2019. Prior to his arrest applicant had preferred application for anticipatory bail which was rejected. The doctor had not certified that deceased was in a fit state of mind while recording her dying declaration. Applicant is in custody for a substantial period of time.

5. Learned APP submitted that offence is of serious nature. The statement of the victim is in the form of dying declaration. There is sufficient evidence to show that applicant had poured kerosene on the deceased and set her on fire. Applicant had sustained injuries

while victim had embraced him after she was set on fire. Hence bail application was rejected.

6. The FIR was registered on 9th April 2019 on the basis of statement of deceased (wife of applicant). The marriage between deceased and applicant was performed about eight years ago. There are two children out of wedlock. The victim has alleged that she had embraced the accused after she was burnt. The applicant, however, contended that he tried to extinguish the fire after victim had set herself on fire. The applicant was hospitalized. He had suffered burn injuries. Investigation is completed. Charge sheet is filed. Applicant is in custody for substantial period of time. Statement of mother of victim was recorded on 9th April 2019. Statement of mother mentions that victim had disclosed her about the incident when she was admitted in the hospital. The statement does not indicate that victim had told her mother that after she was set on fire by the accused she embraced him. The victim was taken to hospital by relatives of accused. Statement of Sanjay Ghonjade was recorded on 9th April 2019. He is the uncle of victim. He has stated that after the victim was admitted in the hospital he had approached her and at that time she disclosed that accused poured kerosene and threw lighter on her body which resulted in burn injuries. The relatives of accused took her to hospital for treatment. The said witness also does not mention that victim had disclosed to them that after she was burnt she embraced the accused. The statement of Tarabai Matang was recorded on 9th April 2019. She is mother of accused. She stated that after hearing shouts she went to the house of accused. She saw accused having burn injuries. She then noticed that her daughter-in-law was burnt. She was taken to hospital

immediately. The report of hospital, however, indicate that victim Aasha Madhukar Matang had poured kerosene on her person on 8th April 2019 and she was admitted in Sassoon Hospital. She died on 13th April 2019. Inquest panchanama dated 13th April 2019 mentions that information was received that patient Aasha Matang had poured kerosene on her person on 8th April 2019 and she was taken for treatment initially at Bolrai Hospital and then to Sassoon Hospital. The station diary entry which is part of investigation dated 26th August 2019 mentions that Police Sub Inspector had informed that accused had suffered injuries to his hands and abdomen.

7. Considering the factual aspects of this matter, it appears that applicant had suffered burn injuries and there is room for argument that he tried to extinguish the fire. The applicant is in custody for substantial period of time. Hence, case for bail is made out.

ORDER

- (i) Bali Application is allowed and disposed off;
- (ii) The applicant is directed to be released on bail in connection with C.R No.318 of 2019 registered with Yavat Police Station, Pune Rural, on executing PR bond in the sum of Rs.25,000/- with one or more sureties in the like amount;
- (iii) The applicant is permitted to furnish cash bail in the sum of Rs.25,000/- for eight weeks;
- (iv) The applicant shall report Yavat Police Station once in a month on every first Saturday between 11 am and 1 pm till further orders;
- (v) The applicant shall not tamper with prosecution evidence;

(vi) The applicant shall attend Trial Court on the dates of hearing, unless exempted by Trial Court for some reason.

(PRAKASH D. NAIK, J.)

MST