

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
APPELLATE SIDE – CRIMINAL
BAIL APPLICATION NO. 96 of 2015

Ajinkya Ramdas Indulkar ... Applicant

Vs

The State of Maharashtra ... Respondent

Mr. Somnath Karmarkar for the Applicant

Mrs. A.A. Mane, APP, for the Respondent -State.

Mr. Pravin Pawar, API, Kurar police station, present.

CORAM: P.D. KODE, J.

DATED: FEBRUARY 2, 2015.

PC:

By this application accused No.2 in charge-sheet submitted by Kurar Police Station against the Applicant and two more accused for having committed offences under sections 323, 427, 436, 504 and 506 II r/w section 34 of the IPC, has prayed for bail. The said police station has accordingly charge-sheeted the Applicant as a result of investigation of FIR lodged by one Pooja Ganesh Ambukar on 5.10.2014 at about 4.30 a.m. regarding an incident which had occurred on the same day at 4.00 a.m. in which her house was burnt.

2. Mr. Karmarkar, learned counsel for the Applicant has pressed the prayer for bail on the ground that there is no

independent eye witness for the crime in question and the accusation against the Applicant is based upon the interested word of first informant and her two minor sons. It is further submitted that even material in the said statement is not to the effect of themselves having seen the Applicant having committed any act of setting the house on fire and as the material therein is restricted to the extent of having seen the Applicant and two other co-accused running away and out of them Alpesh Surve charge-sheeted accused No.1 then holding the Kerosene can. It is submitted that there is no recovery at the behest of the Applicant or any other material linking him with the crime in question. It is vehemently contended that absence of any independent person showing the involvement of the Applicant is a factor in favour of the Applicant and /or for considering his prayer for bail. It is submitted that even the material in the charge-sheet does not reveal that the Applicant was having any motive against the first informant for committing such a crime.

3. Mrs. Mane, learned APP has opposed the application by submitting that incident in question has taken place at early hours of morning i.e. 4.00 a.m. It is submitted that application for bail

does not explain the reason for which the Applicant was nearby the house of the first informant at such an early hours and further fails to explain as to why he ran away alongwith co-accused carrying kerosene can. The learned APP submitted that considering the fact that the house was set on fire and the same indicating the existence of light clearly denotes bleak possibility of mistaken identity of the Applicant. It is submitted that considering the nature of act committed it would be fallacious to expect that for such an act there would be an eye witness when incident had occurred at early hours. Mrs. Mane, learned APP by drawing attention to the material in the FIR submitted that the same indicates that the Applicant and the other co-accused were threatening the first informant for being a witness in a police case for an incident in which co-accused Alpesh Surve had assaulted some other person, reveals that the Applicant was also possessing sufficient motive for committing such an act.

4. Perusal of the charge-sheet supports all the submissions of the learned APP. Presence of the Applicant at such an early hours and his conduct of fleeing away having remained unexplained in facts and circumstances of the case is prima facie

pointer of himself being involved in an act of which result was burning house of the first informant. Thus, prima facie involvement of the Applicant being borne in commission of offence which has an effect upon life of family of the first informant and reason behind commission of such act, the prayer for bail does not deserve consideration.

5. Resultantly, the application is rejected.

(P.D. KODE, J.)