

IN THE HIGH COURT OF JUDICATURE AT BOMBAY,
NAGPUR BENCH, NAGPUR

CRIMINAL APPLICATION (BA) NO.77 OF 2017

Anil s/o Wasudeo Pipare

..VS..

State of Maharashtra, through P.S.O., P.S. Wirur, Tahsil Rajura, District
Chandrapur

.....
Office Notes, Office Memoranda of Coram,
appearances, Court orders or directions
and Registrar's orders
.....

Court's or Judge's Order

Shri A.C. Jaltare, Counsel for the applicant.
Shri V.P. Gangane, Addl.P.P. for the non-applicant.

CORAM : P.N. DESHMUKH, J.
DATED : FEBRUARY 28, 2017.

This application is filed by accused for bail in Crime No.72 of 2016 registered for the offences punishable under Section 307 of the Indian Penal Code and Section 135 of the Electricity Act, 2003.

Heard learned counsel for the applicant and learned Additional Public Prosecutor.

It is submitted that there is no other evidence establishing his involvement who have attempted to commit murder of complainant by electrification. It is submitted that according injury report, there were no external injuries found on the person of complainant nor spot panchanama reveals that applicant connected any wire to the house of complainant having one of its end attached to the main

wire having electricity supply. He, therefore, contended that as no such fact is admittedly mentioned in the spot panchanama, there is nothing to establish involvement of applicant. It is submitted that thus application be allowed.

Learned Additional Public Prosecutor has opposed application as per its reply on record and referring to statement of wireman has submitted that there is no reference of any such connection in the spot panchanama as before it came to be drawn, wire was already removed from the place. He has further relied upon statement of one witness stating that he has seen applicant proceeding towards the field of Pipare where from electric current is alleged to have obtained and thus submitted that application be rejected.

Perusal of report reveals that the same is lodged by Ganpat Durge against applicant suspecting him as prior to the incident their relations are strained. It is also contended that applicant for one or other reason used to invite quarrel with complainant. In the background of such suspicion, report reveals that on 19.3.2016 when complainant returned back to his house at around 11:00 p.m., he sustained electric shock while he was opening lock and, therefore, called his son and had noted that one electric wire was brought from the distance of 250 to 300 feet to his house and, therefore,

he informed said fact to the President of Tanta Mukti Samiti as well as Police Patil and suspected applicant which thus appears to be raised against applicant due to their strained relations.

In the background of contents of report, on perusal of injury certificate it is found that no injuries were sustained by complainant. From the charge-sheet it reveals that during investigation correspondence was entered into with electric supply department and one of questions enquired was, if any tampering is made with electric supply by connecting wire and if such wire is touched by a person, would be fatal? to which it is replied that out of three wires through which electricity supply is passed, if one wire is connected to one amongst those three wires which is then connected to one wire which is passing through three wires above, in that case there can be current passing through wire attached to these two wires and if said wire is touched, there is possibility electrification.

In the background of reply to query as aforesaid, on perusal of spot panchanama which is drawn on 20.3.2016 between 12:40 and 1:40 p.m. does not reveal of any electricity connection put on the wire in field of applicant, having its one end attached to lock of the door of complainant. Learned Additional Public Prosecutor has contended that no such wire could be

found when spot panchanama came to be drawn as before drawing of panchanama, on complaint made by complainant with Laxmikant Bonde, wireman, he on visiting spot had removed such wire and as such nothing was found when panchanama was drawn and for that purpose has relied upon statement of said lineman.

Considering facts as aforesaid, thus it is found that at the time of spot panchanam, nothing could be established that any current was passing from the field of applicant towards the house of complainant. Admittedly, there are no eyewitnesses to the incident. One of witnesses relied by prosecution namely Moreshwar established fact of applicant having found with wire and torch proceeding towards the well of Ramkrushna Gosavi Pipre, adjacent field owner of complainant, however, available evidence is too short to establish involvement of applicant.

In that view of the matter and since charge-sheet is filed, application is allowed.

Applicant shall be released on bail on his executing P.R. Bond in the sum of Rs.25,000/- with one surety in the like amount.

While on bail, applicant shall mark his presence with Wirur Police Station, Tahsil Rajura, District Chandrapur once in three months on the first

day of each such month, pending Trial.

Applicants shall submit proof of his residence with the investigating officer and shall update the same in the event of change in future.

Criminal application is disposed of accordingly.

JUDGE

!! BRW !!

C E R T I F I C A T E

I certify that this Order/Judgment uploaded is a true and correct copy of original signed Order.

Uploaded by : Bhushan R.Wankhede.
(Personal Assistant)

Uploaded on :- 3/3/2017

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