

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

**CRIMINAL APPLICATION NO.914 OF 2019
IN
CRIMINAL APPEAL NO.784 OF 2019**

Mallikarjun Siddha Balshankar ...Applicant/Appellant

vs.

The State of Maharashtra ...Respondent

Mr.Surel S. Shah for the Applicant/Appellant.
Mr.H. J. Dedhia, APP for the Respondent/State.

**CORAM : B. P. DHARMADHIKARI &
MRS. SWAPNA S. JOSHI, JJ.
DATE : 22/07/2019.**

P.C.:

. Application was heard earlier on 15/7/2019 and came to be adjourned to today. Today, we have heard respective learned counsel further. Today, facts show that applicant took can containing kerosene from the hands of Sunil and threw it on burning pyre. He was standing on the side of head of the burning body and from there he has thrown kerosene towards legs.

2. The kerosene went on body of 5 persons standing near legs. Two out of them viz., Tamma and Vishwanath succumbed to injuries. Tamma had sustained 42% injuries while Vishwanath had sustained 72% injuries. Other three persons sustained burns which were treated and they were indoor patients for few days.

3. Submission of learned counsel for the applicant is whether

story of snatching can from hands of Sunil or then of using force to throw kerosene is by way of an afterthought. As Vishwanath happened to be the elder brother of present applicant, the motive has been introduced and a false case has been prepared. Learned counsel submits that it is only a case of an unfortunate accident.

4. Learned APP disputed this. According to him the mode and manner in which the incident has taken place speaks for itself. He contends that extent of burn injuries also show force and quantity of kerosene which must have reached the deceased and other persons. He further adds that other persons present at funeral were asking applicant not to pour kerosene as pyre was properly lighted and burning.

5. We have perused evidence. We find that while standing on the head side of burning body, the kerosene has been thrown. Kerosene has traveled the entire length of pyre and reached the persons who were standing on the other side i.e. after the legs of burning body. Evidence shows that pyre was already properly lighted and these persons must be standing away to avoid heat.

6. In this situation, distance traveled by kerosene and the percentage of burns noted by us supra does not support, atleast prima facie, the contention that it is a case of sheer negligence or accident. It is claimed that the applicant was regularly doing work of throwing kerosene and igniting pyre.

7. We are therefore not inclined to release him on bail. The application is rejected.

(MRS. SWAPNA S. JOSHI, J.)

(B. P. DHARMADHIKARI, J.)