

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

Criminal Application (BA) No. 448 of 2019

Kishor S/o Vinayakrao Padghan

Vs.

State of Maharashtra through Police Station Buldhana City

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

Court's or Judge's orders

Mr. Saurabh Singha h/f Mr. P.B. Patil, Advocate for applicant
Mr. V.P. Patil, APP for non-applicant.

CORAM : MANISH PITALE, J.

DATED : JUNE 18, 2019

The applicant herein is accused of having committed offences under Sections 436, 307, 323, 504 and 506 of the Indian Penal. Initially FIR was registered on 22/02/2019 only for the offence punishable under Section 436 of the Indian Penal Code, which pertains to punishment for mischief by fire or explosive substance with intent to destroy house.

2. According to the prosecution, the incident occurred on 21/02/2019 at about 7:15 in the evening when the applicant was having quarrel with his wife and he had also consumed liquor. It appears that he physically assaulted his wife and set his own flat on fire stating that he would kill not only his wife but

residents of the entire apartment complex. When the said incident was noticed by the residents of the said apartment complex, they helped the wife of the applicant, escape the clutches of the applicant and reported the matter to the police.

3. Investigation is completed in the present matter and chargesheet is filed on 06/5/2019. It is the case of the applicant that even as per the report lodged against him and the case of the prosecution, he had acted under the influence of alcohol and since he was intoxicated, the ingredients of offence under Section 436 of the IPC were not made out because it could not be said that he had either intention or knowledge that the action undertaken by him would lead to the apartment building being set on fire causing imminent danger to the residents of the apartment complex. It was further contended that the applicant was arrested on 22/02/2019. Now that investigation is complete and chargesheet has been filed, there is no reason why the applicant was required to be kept in custody.

4. The learned APP has invited attention of this Court to the medical report appended to the chargesheet showing that although the applicant had consumed liquor, it could not be said that he was completely intoxicated and he was unaware about the consequences of the action he had undertaken. It was further pointed out that the nature of the incident and

the extent of violence inflicted by the applicant on his wife indicated that he was not only liable for punishment under Section 436 of IPC but other provisions which are stated in the chargesheet. It was further submitted that if the applicant is enlarged on bail, there is possibility of repeating the same offence and that it would be dangerous to enlarge him on bail.

5. A perusal of FIR dated 22/02/2019 and chargesheet dated 06/5/2019 demonstrates that the applicant had undertaken the said action during the course of quarrel and altercation with his wife and he was under the influence of alcohol. At this stage, it cannot be said as to whether the applicant was intoxicated to such an extent that he could not be said to be having any intention or knowledge about the consequences of his action. Therefore, there is substance in the contention raised on behalf of the State that enlarging the applicant on bail may lead to further such incidents.

6. But, since the investigation is complete and the chargesheet has been filed and further there is no material to show any criminal antecedents of the applicant, bail can be granted to the applicant by imposing stringent conditions. The material on record does show that genesis of the incident was matrimonial dispute and quarrel of the applicant with his wife and the entire situation completely went out of hand

because of the violent activities undertaken by the applicant. Yet, at present there is absence of material to show that the applicant had undertaken the said actions with the deliberate intent of destroying the entire building and killing each resident of the entire apartment complex. At least, at this stage, prima facie this Court is of the opinion that since the investigation is complete and the chargesheet is filed, further custody of the applicant may not be required, provided that appropriate conditions are imposed in order to ensure that the applicant does not misuse his liberty and he does not indulge in any further such actions.

7. In view of the above, the present application deserves to be allowed conditionally. Accordingly, the applicant is directed to be released on bail on the following conditions.

- a) The applicant shall furnish PR bond of Rs.50,000/- and surety of like amount.
- b) The applicant shall not enter the jurisdiction of Police Station Buldhana City except for reporting to the said police station once in every week i.e. on Sunday between 10.00 a.m. to 5.00 p.m.
- c) The applicant shall not enter the vicinity of Chaitanyawadi and he shall not enter the apartment complex called “Varad Apartment”.

d) The applicant shall remain present before the Trial Court on each and every date of the proceeding.

e) The applicant shall not indulge in any act similar to the one that led to registration of offences against him.

f) The applicant shall not influence the witnesses in any manner.

8. It is made clear that if the applicant violates any of the conditions stated above, the bail granted to him shall stand cancelled.

9. It is further made clear that the observations made in this order are limited to the question of grant of bail to the applicant.

10. The application is disposed of.

JUDGE