

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

CRIMINAL APPLICATION (BA) NO. 1054 OF 2020

Ajay Narayan Dethe

Vrs.

State of Maharashtra, thr. P.S.O. Shivaji Nagar, Khamgaon, Khamgaon City,
Buldana

Office Notes, Office Memoranda of
Coram, appearances, Court's Orders
or directions and Registrar's order

Court's or Judge's Order

Shri S.V. Sirpurkar, Adv. for the applicant.
Shri S.A. Ashirgade, APP for the non-applicant / State.

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**CORAM : PUSHPA V. GANEDIWALA, J.
DECEMBER 02, 2020.**

Heard.

2. The applicant is said to be arrested in Crime No. 434/2020 registered at Police Station Shivaji Nagar, Khamgaon city, Buldhana, District Buldhana for the offence punishable under Sections 452, 435, 436 of the Indian Penal Code.

3. The informant is the mother-in-law of the applicant. On account of matrimonial dispute the wife of the applicant (daughter of informant) was residing at her mother's place. The applicant used to come to the informant's place and used to create seen. It is alleged that on 11/10/2020, the applicant had set on fire the

house of the informant. The First Information Report came to be registered and the applicant came to be arrested.

4. Perused the application, affidavit-in-reply filed on behalf of the State and the charge-sheet.

5. At the outset, *prima facie*, the offence under Section 452 is not made out as at the time of mischief by fire, nobody was present at the house so there is no question of house trespass for preparation for causing hurt to any person, etc.

6. With regard to offence punishable under Sections 435 and 436, Section 436 is punishable for life or an imprisonment which may extend to 10 years and fine.

7. In the instant case, though the dwelling house is allegedly tried to be burnt, however, the prosecution could not point out any major mishap or damage by such burning. Therefore, life imprisonment may not be attracted. This Court is inclined to allow the application, however, on stringent conditions :

(i) The applicant – Ajay Narayan Dethe be released on bail on executing Personal bond of Rs. 25,000/- with a solvent surety of like amount.

(ii) The applicant shall not enter the vicinity where the informant and her daughter Pooja i.e. wife of the applicant are residing.

(iii) The applicant shall not leave his local jurisdiction without prior intimation to the concerned police station.

(iv) The applicant shall not tamper with the evidence of prosecution witnesses.

(v) The applicant to attend the concerned police station once in a month i.e. on every first Monday of the month between 12.00 noon and 2.00 p.m.

(vi) Needless to say that the aforesaid observations are only for the purpose of deciding this application and the same shall not come in the way of the trial Court to decide the trial.

JUDGE

D.S. Baldwa