

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

BAIL APPLICATION NO.140 OF 2021

Pralhad s/o Marabu Shingade,
Age 55 years, Occupation Labour,
R/o India Nagar, Latur
Taluka and District Latur.

.....Applicant

VERSUS

The State of Maharashtra,
Through The Police Inspector,
Shivaji Nagar Police Station,
Taluka and District Latur.

.....Respondent

.....
Advocate for Applicant : Mr. V. B. Jadhav.
APP for Respondent-State : Mr. S. B. Narwade
.....

CORAM : SMT.VIBHA KANKANWADI, J.
DATE : 22-02-2021.

ORDER :

1. Present applicant has been arrested in connection with Crime No.436 of 2020 dated 17-12-2020, registered with Shivaji Nagar Police Station, Latur District Latur, for the offences punishable under Sections 307, 302, 452, 504, 506 read with 143 of the Indian Penal Code. He prays for bail under Section 439 of Code of Criminal Procedure.
2. Heard learned Advocate Mr. V. B. Jadhav for applicant and

learned Additional Public Prosecutor Mr. S. B. Narwade for respondent-State. In order to cut short it is stated that, both of them have made submissions in support of their respective contentions.

3. It is to be noted that the First Information Report came to be lodged on the basis of dying declaration given by one Mangalbai Dashrath Dhotre when she was admitted in the burn ward of Civil Hospital, Latur. It has been recorded by the Head Constable on duty. Perusal of the first Information Report would show that it does not reflect the name of the present applicant, however it is to be noted from the police papers that, second dying declaration of the deceased was recorded by Executive Officer. In that second dying declaration, the name of the present applicant is reflected. In the first dying declaration it was the case of the deceased that she has dispute in respect of her house with the neighbour Gopal Mudde. At about 10.00 p.m. on 16-12-2020, when deceased was talking to her mother, Gopal Mudde came and started asking as to why they were unnecessarily abusing them. She states that he had come in side her house and, thereafter, he was followed by one Rohidas Mudde, Sahebrao Mudde and Govind Mudde. After assaulting and abusing

the informant deceased Mangalbai, to her mother and daughter, all those persons went away. She then states that they all returned after about 15 to 20 minutes. But at that time they had forcibly opened the door of her house. Gopal Mudde ignited the gas stove from her house and took burning clothe and put it on her person. Rohidas and Sahebrao were assaulting daughter and mother of the informant. The informant caught fire and those four persons went away. After the fire was extinguished, she was taken to hospital. Thus, it can be seen that in the First Information Report, she has stated presence of only four persons time and again. But in the second dying declaration apart from those four persons, she has also taken the names of Nagabai Mudde, Nirmalabai Mudde, Pralhad Shingade (present applicant), Mahananda Shingade. She states that all these persons had come and raised dispute as well as assaulted her and left. Then she states that all of them returned and by entering her house, they had started assaulting her. After the gas stove was lighted, she was pushed on the same, and then after taking burning cloth, she was put to fire. Even if we take the second dying declaration as it is, yet it is to be noted that, no specific role has been attributed to the present applicant. The post mortem report shows the probable cause of death as, "Complications

following Bury Injury.” She had sustained 41 % of the burns. The dying declaration is required to be proved.

4. The learned Additional Public Prosecutor has pointed out the statement of the mother and the daughter of the deceased. But if we consider their statement as it is, the presence of the present applicant is stated to be in the first incidence, and then both of them have stated that, Gopal, Govind, Sahebrao and Rohidas took key of the room in which the deceased was, and those four persons entered the said room. That means, even the eye-witnesses are not attributing to the present applicant that he had in any way put deceased to fire. Under such circumstance, the application deserves to be allowed. Hence, following order.

ORDER

- 1) Applicant Pralhad s/o Marabu Shingade, in connection with Crime No.436 of 2020, registered with Shivaji Nagar Police Station Dist. Latur, for the offences punishable under Section 307, 302, 452, 504, 506 read with 143 of the Indian Penal Code, be released on P.R. of Rs.50,000/- (fifty thousand) with two solvent sureties of Rs.25,000/- each (twenty five thousand).
- 2) The applicant shall not tamper with the evidence of the prosecution in any manner.

- 3) He shall not indulge in any criminal activity.
- 4) Before submission of bail papers, the applicant should give complete address of his residence with his mobile number. So also he should comply with the requirements under paragraphs No.12 (1) to (6) of Chapter I of Criminal Manual, whichever are applicable.
- 5) The appellant to attend Shivaji Nagar Police Station Dist. Latur on every second and fourth Sunday of the month from 09.00 a.m. to 12.00 noon and maintain diary of his attendance duly countersigned by the Police Station officer, till filing of the charge-sheet.
- 6) Bail before Trial Court.

(SMT. VIBHA KANKANWADI)
JUDGE

vjg/-