

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD**

BAIL APPLICATION NO.566 OF 2021

DINESH DIGAMBAR PARDESHI
VERSUS
THE STATE OF MAHARASHTRA

...
Advocate for Applicant : Mr. Kahalekar Kuldip S.
APP for Respondent/State: Mr. V.M. Kagne
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CORAM : MANGESH S. PATIL, J.

DATE : 19.06.2021

PER COURT :

This is an application under Section 439 of the Code of Criminal Procedure as the applicant has been in jail since last almost two months and still the investigation is not over in connection with Crime No. 98/2021 registered with Harsool Police Station, Aurangabad for the offence punishable under Sections 307, 323, 498A, 504 read with Section 34 of the Indian Penal Code.

2. The FIR has been lodged by the wife of the applicant alleging that on account of a matrimonial dispute and particularly his addiction to liquor a quarrel ensued between the two. The applicant fetched petrol from his motorcycle parked out side his house poured it on her person and ignited her causing burn. Her brother-in-law who was also present in the house then took her to GHATI Hospital on his motorcycle. She was provided first aid and thereafter she was taken to a private hospital where she was given

treatment. The FIR was lodged and the offence was registered.

3. I have heard the learned advocate for the applicant as also the learned APP. The learned advocate for the applicant would submit that in fact the applicant is mentally ill and because of the matrimonial dispute it is the informant who is in habit of assaulting him. She had several times threatened to set herself on fire. It is pursuant to such a threat that she herself had set her on fire and a concocted story is built up. Going by the allegations, major part of the investigation must have been over by now. The applicant has been in jail for two months. His further incarceration is not necessary. He is ready to co-operate the Investigating Officer and can be granted bail by putting him to appropriate conditions.

4. The learned APP opposes the application. He submits that the private hospital where the informant was treated has certified that the burns were to the extend of 25%. There are statement of the brother-in-law who had taken the informant to hospital for treatment at the first instant as also a statement of the minor child of the couple both of whom have stated about the informant having caught fire and had gone to bathroom to douse it. At this juncture when the investigation is going on, releasing the applicant on bail would create hurdle in completing it. The offence is serious and the application be rejected.

5. I have carefully gone through the papers of the investigation. Conspicuously, the minor child of the couple and the brother of the applicant in their statement have stated that though the incident had taken place they

have no personal knowledge as to how the informant had caught FIR. At this juncture, therefore, except the highly interested version of the informant there is not much of material to draw any inference attributing authorship to the applicant.

6. Conspicuously, though the FIR reads that the informant was taken to GHATI Hospital, no record of GHATI Hospital is available with the papers of the investigation. Though there is a record of the private hospital to the effect that she had sustained 25% burns, conspicuously the case papers show that it is her father who had taken her to that hospital but the FIR reads that it was her friend and friends husband who had taken her to the hospital and not her father.

7. Considering the fact that the incident has happened as a sequel to some matrimonial dispute, taking into account the aforementioned facts and circumstances, when the applicant has been in jail for last two months which must have provided Investigating Officer sufficient opportunity to complete the investigation, the applicant deserves to be released on bail subject to suitable conditions.

8. The application is allowed. The applicant shall be released on bail in connection with Crime No. 98/2021 registered with Harsool Police Station, Aurangabad for the offence punishable under Sections 307, 323, 498A, 504 read with Section 34 of the Indian Penal Code, on furnishing personal recognizance for an amount of Rs.25,000/- and furnishing a solvent surety in the like amount on following conditions:

- a. He shall attend the concerned police station on every Saturday between 11.00 am and 12.00 noon starting from 21.06.2021 and shall co-operate the Investigating Officer till filing of the charge sheet.
- b. He shall not tamper the evidence or influence the witnesses in any manner.
- c. Bail before the trial court.

(MANGESH S. PATIL, J.)

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