

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

CRIMINAL APPLICATION (BA) NO.247/2021

Mr. Mahadeo s/o Sitaram Lambe,

-VERSUS-

State of Maharashtra through P.S.O. P.S. Shegaon City, Tahluka, Shegaon, District Buldhana.

Office notes, Office Memoranda of
Coram, appearances, Court's orders
or directions and Registrar's orders.

Court's or Judge's Orders

Shri Rohan Deo, Advocate h/f Akshay A. Naik, Advocate for
applicant.

Ms N.P. Mehta, A.P.P. for non-applicant/State.

CORAM : VINAY JOSHI, J.

DATE : APRIL 07, 2021.

Hearing was conducted through Video Conferencing.

2. The applicant (accused) is arrested by Shegaon City Police Station, District Buldhana, in Crime No.360/2020 relating to offence punishable under Section 307 of the Indian Penal Code. Beside usual grounds, the accused claimed bail by stating that the possibility of false implication cannot be ruled out. All the witnesses are interested witness and there is possibility of injured child sustaining accidental burns. It is also submitted that accused is physically disabled old aged person. Moreover, the investigation is complete and therefore he is entitled for bail.
3. The State resisted bail by filing reply-affidavit. It is stated that the applicant caused severe burn injuries to minor child

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with the help of electric heater at his neck, back, etc. The act of accused is inhuman as well as brutal. There are eye-witnesses to the incident. Medical evidence supports the prosecution case. Having regard to the cruel act of the applicant, State has prayed for rejection of bail.

4. At the instance of report lodged by father of victim boy aged four years, a crime was registered. The informant-father stated that on 01/09/2020 around 1.00 p.m. to 1.30 p.m., he received a phone call informing that his son Darshan got injured. Immediately, informant rushed to his house and found minor Darshan while weeping. The informant learnt from his wife that the applicant, who is neighbouring resident, had given electric shock to minor Darshan and caused severe burn injuries all over his body. She also informed that when she went to the rescue of minor, the accused had also caused burn injuries to her by means of electric heater. Immediately, informant shifted his son and wife for medical treatment. On the point of motive, informant stated that 15 days preceding to the occurrence he had purchased a piece of open land from the accused. It was the applicant's belief that the informant purchased land in low price and out of said grudge, he did the heinous act.

5. The police have carried out the investigation and filed

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charge-sheet against the accused. During the course of investigation, statements of eye-witnesses came to be recorded. Victim's mother namely Sheetal has specifically stated that she had seen accused while causing burn injuries to her minor son by means of electric heater. She stated that when she tried to save her child, the accused also caused her burn injuries. The police recorded statement of Archana, Dinesh and a child witness namely Sahil, who stated that they have seen accused while causing burns to the victim. The police paper also contains statement of victim boy who has stated that the applicant called him at his house and had caused burn injuries at his neck, back, hand, thigh with the aid of electric heater.

6. The police have collected medical papers. Injury certificate issued by Saibai Mote Sub-District General Hospital Shegaon, discloses that all over body, there were burn injuries to the extent of 30%. Medical certificate issued by Dr. Prashant Mulgaonkar states that minor Darshan had sustained deep hot metal burn injuries at his neck, shoulder, back and both limbs and he is under treatment. The another certificate issued by Dr. Murgaonkar speaks about burn injuries sustained by Shital (victim's mother). Another medical certificate dated 30/09/2020 issued by Dr. Mulgaonkar speaks that minor Darshan was indoor patient from 01/09/2020 to 23/09/2020 and he is still under

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treatment. He had stated that the minor had undergone many surgical procedure and skin grafting for his neck wounds. The minor had deep full thickness burns on neck and chest and upper back. It is expressed that his back burns may need grafting in few days. The query report says that there is possibility of causing those injuries by seized weapon namely electric heater. The police have seized electric heater from the place of occurrence.

7. Learned counsel for the applicant would submit that all the witnesses are interested. At this juncture, it would suffice to say that merely because the witnesses are related to the informant, their evidence cannot be outrightly rejected. It depends upon the facts and circumstances of each case to ascertain, as to whether there was possibility of any stranger viewing the occurrence. No doubt, while assessing the evidence of related witnesses, the Court should be at guard. The incident took place in the house of applicant which is adjacent to the informant's house. The presence of mother of victim and other relatives at the place of occurrence was quite natural.

8. Learned counsel for the applicant submitted that there is possibility of minor victim sustaining accidental burns while playing in the courtyard of the accused. Merely on the basis of one of the possibility, benefit cannot be given to the accused.

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Particularly, there is overwhelming material in the shape of several eye-witnesses who have seen applicant while causing burn injuries to the victim. Therefore, prima facie, there is no substance in the submission made in that regard.

9. The incident took place on 01/09/2020 at around 1.00 p.m. whilst report was lodged by father of victim on the same day at 5.22 p.m. meaning thereby within four hours from the occurrence. At the time of incident, informant was at his working place, he came to his residence and after giving primarily treatment, he went to police and lodged the report. It is seen that the First Information Report was lodged in most possible shortest time which prima facie eliminates the chances of concoction. It is evident from the various statements that the applicant acted in cruel and barbaric manner since he gave electric shock and caused burns to a minor vulnerable innocent child aged four years. The applicant is a well grown up man presumed to know the consequences and effect of causing burns by means of an electric heater.

10. It is argued that there was no motive for accused to commit the act. According to accused, on the other hand, the informant has motive for false implication due to land transaction. Having regard to the direct evidence collected by prosecution, the

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possibility of false implication needs no consideration. Though the motive does not clearly emerges however, according to the informant, since accused sold his land in low price, he had a grudge against the informant. Always motive is a hard nut to crack which is always hidden in the mind of the culprit. It is a settled law that when the prosecution case is based on direct evidence, the motive loses its significance.

11. In short, the act of accused is quite heinous. For personal reasons, he had even not spared the innocence child aged four years. The child is still suffering and must be under a trauma. Merely because the accused is aged person that cannot be considered as a decisive factor in context of most cruel act did by him. Having regard to the nature of accusation, physical injuries caused to minor boy, the mode of causing injury to minor, the suffering by minor, availability of eye-witnesses and supporting medical evidence, the applicant does not deserve for grant of bail. In view of that, application stands rejected.

JUDGE