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**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION**

ANTICIPATORY BAIL APPLICATION NO.1314 OF 2015

Tulshiram Sitaram Mahajan	... Applicant
Vs	
The State of Maharashtra	... Respondent

Mr.Harshad Nimbalkar a/w Mr.Hrishi D. Ghorpade, i/b Mr.Satyam Nimbalkar, for the Applicant.

Ms.P.P.Shinde, APP for the Respondent – State.

**CORAM : REVATI MOHITE DERE, J.
DATE : 03rd SEPTEMBER, 2015**

P.C. :

1. Heard learned counsel for the Applicant and learned APP for the Respondent - State.
2. By this application, the applicant seeks pre-arrest bail in connection with C.R.No. 510 of 2014 registered with the Bharati Vidyapeeth Police Station, Pune, for the alleged offence punishable under Section 304(II) r/w.34 of the Indian Penal Code, 1870.

3. The incident in question has taken place on 02.09.2014. In the said incident, four persons including two minor children died an unfortunate death. It is alleged that the said persons had gone for Ganpati Visarjan (Immersion) and had fallen in the stone quarry containing water. The applicant is stated to be a part owner of the quarry. It is alleged that after the mining, the pits/spots were not covered with sand.

4. Learned Counsel for the Applicant submitted that the applicant is aged 87 years and that he is not the owner of the quarry, where the alleged incident has taken place. Learned counsel for the applicant further states that the incident is alleged to have taken place on 02.09.2014 and the FIR has been registered on 11.12.2014 i.e. after almost three months. He submitted that at the highest the offence would be under Section 304A and not one under Section 304(II). It appears that four persons died an unfortunate death and the cause of death is stated to be death due to drowning. It appears that pursuant to the said incident, initially an AD was registered under Section 174 of the Code of Criminal Procedure. The present applicant is alleged to be the part owner of the quarry in which the alleged incident took place. The allegation is that after mining was done in

the quarry, the big deep pits were not filled in by the applicant, as a result of which water would collect in the pits in monsoon. It is alleged that the applicant did not make any arrangements for removal of the water from the pits and knowingly ignored the same, which ultimately led to the drowning of four persons. Prima facie, it is doubtful, whether the offence would be one under Section 304(II) of the Indian Penal Code.

5. Considering the nature of allegations, the applicant is entitled to be granted pre-arrest bail on the following terms and conditions:

ORDER

- (i) In the event of arrest, the applicant be enlarged on bail on his furnishing P.R.Bond in the sum of Rs.10,000/- with one or two solvent sureties in the like amount;
- (ii) The applicant shall not tamper or attempt to contact the complainant or any witness concerned with the said case;
- (iii) Considering the age of the applicant, the applicant shall depute his son to appear before the concerned Investigating Officer along with all necessary documents as sought by the police.

6. The Application is allowed in the aforesaid terms and is accordingly disposed of.
7. It is made clear, that the observations made herein are confined to this application and the learned Judge to decide the case on its own merits, uninfluenced by the observations made herein.
8. Parties to act on the authenticated copy of this order.

REVATI MOHITE DERE, J.