

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

ANTICIPATORY BAIL APPLICATION NO.333 OF 2016

Madhukar Posalya Gavit ... Applicant

Vs.

The State of Maharashtra ... Respondent

Ms.Asmita Sameer Sarangdhar for the Applicant
Ms.Rutuja Ambekar, APP, for Respondent – State

CORAM: **MRS.MRIDULA BHATKAR, J.**

DATE: **APRIL 1, 2016**

P.C.:

1. The application is moved for pre-arrest bail as the applicant-accused is facing prosecution under section 304 r/w 34 of the Indian Penal Code in C.R. No.I-22 of 2016 at Thane Nagar police station, registered at the instance of one Mr.Sayeed Rehman Khan on 7.2.2016. It is the case of the prosecution that on 6.2.2016, when the complainant was going alongwith his family members at around 10pm and when suddenly his daughter in law fell down in an open duct. The said duct was 15' to 20' deep and when she was taken out, she was dead. The applicant-accused is a Junior Engineer of the Corporation and he was supposed to supervise the entire work.

2. The learned Counsel for the Applicant submits that the applicant-accused was a supervisor, however, considering the nature of the offence,

the offence may be under section 304A and not under section 304 of the Indian Penal Code. Therefore, he is to be granted pre-arrest bail.

3. Learned Prosecutor has opposed the application. She relied on the statement of one Kailash. She submitted that to supervise the work was the entire responsibility of the applicant-accused. However, he failed to supervise and, therefore, the daughter in law of the complainant died.

4. Perused the FIR, the statements of the witnesses produced herewith. It appears that the applicant-accused was responsible for the supervision of the work. The negligence appears to be ex-facie. However, considering the nature of the offence, it may not fall under section 304 of the Indian Penal Code. Hence, I grant pre-arrest bail to the applicant-accused on the following terms:

- i) In the event of arrest, the applicant-accused shall be released on bail upon furnishing P.R. Bond in the sum of Rs.30,000/- with one or two solvent sureties in the like amount.
- ii) The applicant-accused shall not tamper with the evidence or pressurise the complainant;
- iii) The applicant-accused shall not indulge into any criminal activity;

iv) The applicant-accused shall not abscond or leave India without prior permission of the Court and furnish his permanent address to the Investigating Officer alongwith documentary proof of his address.

v) The applicant shall cooperate with the Investigating Officer and attend the concerned police station on every Monday, from 6pm to 7pm, till filing of chargesheet.

vi) In the event of breach of any of the above conditions, the prosecution will be at liberty to move the Court for cancellation of bail.

5. Anticipatory Bail Application is disposed of accordingly.

(MRIDULA BHATKAR, J.)