

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

ANTICIPATORY BAIL APPLICATION NO.446 OF 2016

Shri Bhushan K. Borse	... Applicant
Vs.	
The State of Maharashtra	... Respondent

with
ANTICIPATORY BAIL APPLICATION NO.347 OF 2016

Shri Sunil Sudhakar Joshi	... Applicant
Vs.	
The State of Maharashtra	... Respondent

Mr.Rajendra Raghuvanshi, Sr.Adv. i/b Ratnesh Dube for the Applicant in ABA/446/2016

Mr.A.P. Mundargi, Sr.Adv with Mr.Manoj Mohite, Abhishek Yende and Parag Sawant in ABA/347/2016

Mr.S.H. Yadav, APP, for State in ABA/446/2016

Mrs.P.P. Shinde, APP, for State in ABA/347/2016

Mr.R.R. Chavan, PI, Thane city police station – present

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

DATE: **MARCH 10, 2016**

P.C.:

1. Both these anticipatory bail applications are decided together as both the applicants are facing prosecution under sections 304 r/w 34 of the Indian Penal Code in the same FIR lodged by one Mr.Sayyed Rehman Khan with the Thane Nagar police station, Thane. Anticipatory Bail Application No.446 of 2016 is appearing on Board for the first time. However, as the Investigating Officer is present and as Anticipatory Bail Application No.347 of 2016 is also on board today, it is also taken up for

hearing together. The Anticipatory Bail Application No.446 of 2016 is filed by co-accused in the same C.R. i.e., No.I-22 of 2016 with the Thane Nagar Police station on 7.2.2016, at the instance of one Sayyed Rehman Khan who is the same complainant in Anticipatory Bail Application No.347 of 2016. In Anticipatory Bail Application No.347 of 2016, this Court by order dated 26.2.2016 has granted interim anticipatory bail and also directed the applicant-accused to attend the concerned police station. In view of this, both the applications are finally decided together.

2. It is the case of the prosecution that the firm of the applicant/accused was giving sub-contracts of the construction to undergo the drainage system at Thane. It is the case of the complainant that the daughter-in-law of the complainant was walking on the road at 10.05 pm along with him when she fell in the duct of drainage. Thereafter, when she was removed with the help of fire brigade, she was no more. Therefore, the complaint was lodged against the applicants/accused and officers of Thane Municipal Corporation. Hence, these applications.

3. The learned Counsel for the applicant-accused in Anticipatory Bail Application No.347 of 2016 submitted that the said applicant-accused is working as a Project Manager of the company which was engaged as a Consultant to the project. Both the learned Senior Counsel appearing for the applicants/accused prayed for anticipatory bail and submitted that the

applicants/accused are ready and willing to abide by whatever conditions that may be imposed by this court and the work was not directly under their supervision.

4. The learned Prosecutor has opposed the applications and submitted that the daughter-in-law of the informant lost life because of complete negligence of the applicants-accused and other co-accused.

5. Perused the FIR and the documents produced herewith. The death of the daughter-in-law of the complainant is most unfortunate. She has lost life, ex-facie due to the utter negligence of the persons concerned. She fell in an open duct below which the underground drainage work was going on and no protection measure was taken by the accused and other accused to cover that duct. However, this is not a case where custodial interrogation is required and hence, the anticipatory bail is granted on the following terms:

(i) In the event of arrest, the applicants-accused shall be released on bail upon furnishing P.R. Bond in the sum of Rs.20,000/-, each with one or two solvent sureties in the like amount.

(ii) The applicants-accused shall not tamper with the evidence or pressurise the complainant;

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

(iv) The applicants shall cooperate with the Investigating Officer and attend the concerned police station on every Friday, between 4pm to 6pm, till filing of chargesheet.

(v) 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.

6. Anticipatory Bail Applications are disposed of as above.

(MRIDULA BHATKAR, J.)