

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

ANTICIPATORY BAIL APPLICATION NO.1111 OF 2017

Kamlesh Dattatraya Patel @ Dhodi

Applicant

versus

The State of Maharashtra

Respondent

Mr.S.V.Marwadi i/by Ms.Trupti Khamkar for Applicant.

Mr.V.V.Gangurde, APP, for State.

CORAM : PRAKASH D. NAIK, JJ.

DATE : 30th June 2017

PC :

1. This is an application for anticipatory bail in connection with CR No.I-111 of 2017 registered with Palghar Police Station under Sections 304-II of Indian Penal Code and Section 135/38 of Electricity Act.

2. A complaint was lodged by Bandu Warkhande, who is the father of the deceased. It is alleged that the deceased Rupesh aged about 21 years was working in Laxmi Moti company. The Applicant-accused is the owner of a farm in the same village consisting of several trees of Mango and Chikoo. The Applicant used to call the deceased frequently to work in the farm. In order to protect the farm, the accused had installed wire fencing around his farm. He used to connect the electric current into the wire fencing to protect the farm. The villagers had warned the Applicant on several occasions to remove the wire fencing installed around the farm which was dangerous to life. On 11th June 2017, the informant received a message from his daughter that Rupesh is lying

unconscious in the farm of the Applicant. Hence, the informant went to the said place. Several people were gathered at the said place. The son of the complainant was lying in the hut and he was unconscious. It was noticed that skin on the right hand of the deceased was torn and there were burn marks of black colour around the skin. The Applicant informed them that the deceased was found lying in the hut. Thereafter the deceased was taken to hospital. He was declared dead. The cause of death is shown to be due to electric shock. The Applicant preferred an application for anticipatory bail before the Sessions Court which was rejected.

3. Mr.Marwadi, learned counsel for Applicant submitted that the Applicant has been falsely implicated in the crime. He submitted that the Applicant had not connected the wire fencing with electric current, as alleged by the prosecution. He submitted that if the prosecution is to be believed, the victim would have sustained injuries to his legs while entering into the said farm. He submitted that the considering the fact that injury was caused to his hand, it appears to be a case of accident where the deceased must have pulled some electric wire in the hut resulting into death by electric shock. He submitted that there were frequent instances of theft in the farm house and that is reason to install the wire fencing around the farm; but there was no electricity current flowing in the said wire fencing. He further submitted that the Applicant was away from the farm house on the date of incident and had returned to the farm at the time of incident. He informed the relatives of the deceased. He submitted that the Applicant and his wife were brutally assaulted by villagers and the Applicant was hospitalised. He further submitted that the entire case of prosecution is false. He placed reliance upon

contents of say filed opposing Applicant's application and tried to point out that the allegations are improvised to implicate the Applicant. He submitted that electric connection was obtained in the year 2016 and the question of misusing or committing theft of electricity since last three years does not arise. He submitted that taking into consideration the nature of incident, he should be granted anticipatory bail. He is willing to co-operate with the investigation. He submitted that he had lodged several complaints with police regarding theft caused in his farm, but no cognizance was taken by police. The villagers are biased against the Applicant and have therefore, implicated him.

4. Learned APP submitted that the body of the deceased was found in the hut situated within the farm house of the Applicant. A panchanama of the scene of offence was recorded by police. The articles in the farm of wire fencing were recovered by police. It is apparent from the scene of offence that there was electric current flowing in the wire fencing installed by the Applicant. He submitted that post mortem report shows that the deceased had died due to electric current. He submitted that there was no possibility of getting any electric current in the hut as submitted by advocate for Applicant.

5. I have perused the FIR and the investigation papers produced by learned APP. On perusal of the aforesaid documents it is apparent that the deceased had died on account of electric shock. The investigation reveals that the wire fencing was installed by the Applicant and he was infusing electric current in the said wire fencing. The articles were recovered from the scene of offence. It is

apparent that the Applicant was aware that he had installed the wire fencing to protect the farm and on account of wire fencing infusion of electric current, there was likelihood of danger to the life of any person. The material collected by investigating agency shows involvement of the Applicant in the crime and hence, no case for grant of anticipatory bail is made out. I am, therefore, not inclined to allow this application. The application is rejected.

6. It is made clear that observations made in this order are for the purposes of considering the anticipatory bail application.

7. At this stage, learned advocate for Applicant, on instructions, submits that the Applicant would surrender to the investigating officer after four days. Statement is accepted. Learned APP, on instructions, states that for a period of four days from today, the Applicant will not be arrested.

(PRAKASH D. NAIK, J.)

MST