

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

ANTICIPATORY BAIL APPLICATION No. 1231 OF 2018

Paresh Vilasrao Patil

...Applicant

Vs.

The State of Maharashtra

...Respondent

WITH

ANTICIPATORY BAIL APPLICATION No. 1232 OF 2018

Priyadarshani Paresh Patil

...Applicant

Vs.

The State of Maharashtra

...Respondent

Mr. Shirish Gupte, Senior Counsel i/b. Mr. Rahul S. Kate for Applicant in ABA 1231 of 2018

Mr. A.P. Mundargi, Senior Counsel i/b. Mr. Rahul S. Kate for Applicant in ABA No. 1232 of 2018

Mr. S.S. Pednekar -APP in ABA 1231 of 2018

Ms. Veera Shinde – APP in ABA No. 1232 of 2018

CORAM : SMT. SADHANA S. JADHAV, J.

DATE: JUNE 26, 2018

P.C.

1. Both these applications are under section 438 of the Criminal Procedure Code.

2. The Applicants herein are apprehending their arrest in Crime No. 332 of

2016 registered at Karad City Police Station for the offences punishable under sections 302, 365, 368, 323, 504, 506, 174 A r/w. 34 of the Indian Penal Code.

3. While considering the application of the principal accused Vikas Dhas, this Court had observed that the Applicants had fabricated the documents to plead alibi with the help of the present Applicants. The Applicants have been shown as witnesses. The principal accused had disclosed that he was admitted in the hospital of the present Applicants on the day of incident and the certificates were given to that effect by the present Applicants.

4. Mr. Gupte, learned Senior Counsel has vehemently urged that in any case, upon perusal of the compilation of the charge-sheet, it cannot be said that applicants are liable for the offence punishable under section 302, 365 or 386 of the IPC as this is a case of custodial death as the deceased Dashrath @ Raosaheb Laxman Jadhav was in the custody of Karad City Police Station and the Applicants, at the most, would be liable for the offences punishable under section 192 or 201 of the Indian Penal Code which are bailable offences.

5. Taking into consideration the submissions, this Court is of the view that the Applicants even at the time of trial can not be held liable for the offences punishable under Section 302, 365, 385 or 386 of the IPC. In the eventuality,

they are being prosecuted for the offences which are bailable in nature, there is no question of considering the application under section 438 of Cr.P.C. The Applicants would be at liberty to take recourse to the procedure of law as advised. Both the applications stand disposed of accordingly.

[SMT. SADHANA S. JADHAV, J.]