

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

CRIMINAL BAIL APPLICATION NO. 2432 OF 2019

Shrikant Ganesh Jadhav	 Applicant
Versus	
The State of Maharashtra	 Respondent

Mr. Jaydeep D. Mane, Advocate for Applicant.
Mr. Prashant Jadhav, APP for the State/Respondent.
Mr. Sachin Bankar, PSI, Vijapur Naka Police Station, present.

CORAM : SARANG V. KOTWAL, J.
DATE : 20th SEPTEMBER, 2019

P.C. :

1. The Applicant is seeking his release on bail in connection with C.R.No. 509 of 2019 registered with Vijapur Naka Police Station on 23/07/2019. Initially, the offence was registered U/s.304A r/w. 34 of IPC, but subsequently, Section 304 of IPC i.e. offence of culpable homicide not amounting to murder was added.
2. The FIR is lodged by widow of the deceased Sachin. The informant Monika has stated that the deceased was working with the applicant. The applicant was a contractor and was taking

contracts of various construction projects. On 20/07/2019 the deceased fell from considerable height from one of the floors in the project known as Anutham project. The deceased was working with the applicant and it was the duty of the applicant to provide all safety measures. On this basis, the FIR is lodged.

3. Heard Mr. Jaydeep Mane, learned Advocate for the Applicant and Mr. Prashant Jadhav, learned APP for the State/Respondent.

4. Shri. Mane submitted that the deceased was not actually working at the site where the incident had occurred. He was working at some different site known as Jijau Residency, near the site of Anutham project. Though, the applicant was also the contractor of Anutham project. At that point of incident, the work was not going on at Anutham project. He submitted that the deceased was addicted to using his cell phone and was constantly looking at his mobile phone. That may have caused his accidental fall. He submitted that the applicant is arrested on 04/08/2019 and no purpose will be served by keeping him in custody.

5. Learned APP, on the other hand, opposed this

application and relied on the investigation papers in respect of investigation carried out. Learned APP, on instructions, made submission that the chargesheet is likely to be filed within a short period, and therefore, bail may not be granted to the applicant.

6. I have considered these submissions and have perused the papers of investigation. Those contain statements of co-workers of deceased such as, Akshay Yerawade, Aslam, Nikhil Bansode, Umakant Yerwade, Sagar Yerawade etc. Their statements, and in particular, statement of Nikhil mention that the work was going on, on the site of Jijau Residency. The deceased's and co-worker's job was of filling columns, for that they needed some iron angles and plywood pieces. The deceased was knowing where those articles were kept in Anutham project and he volunteered to go there and bring those articles. He had gone there, but he fell from considerable height and lost his life. It is true that the applicant should have taken sufficient precaution to avoid such unfortunate incident and that the applicant had not provided safety measures, however, the applicant is not a criminal and he does not have criminal antecedents. The incident is unfortunate

but can be directly attributed to the fact of not providing safety measures. At this stage, there is sufficient scope to infer that the applicant was having knowledge as defined U/s.304 of IPC that such incident could occur. Therefore, there is nothing wrong, atleast at this stage, to apply Section 304(II) of IPC. However, ultimately this question can be decided only during the trial. The trial court shall not be influenced by the observations made in this order. The only question before me is that whether the applicant's continued detention in custody is necessary. I had mentioned earlier that learned APP made a statement that the charge-sheet is likely to be filed in a short period and the investigation is already over. There are no allegations that the applicant had tried to interfere with the investigation and had tried to influence the witnesses. The applicant does not have criminal antecedents and there is no reason to believe that he will evade due process of law. In this view of the matter, I am inclined to grant bail to the applicant.

7. Hence, the following order :

ORDER

- (i) In connection with C.R. No. 509 of 2019 registered with Vijapur Naka Police Station, the applicant is directed to be released on bail on his furnishing PR bond in the sum of Rs.25,000/- (Rupees Twenty Five Thousand Only) with one or two sureties in the like amount.
- (ii) Application stands disposed of accordingly.

(SARANG V. KOTWAL, J.)