

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
ANTICIPATORY BAIL APPLICATION NO.637 OF 2019

Sanjay Babhutrao Sonwane and Anr.] ... Applicants

Versus

The State of Maharashtra] ... Respondent

WITH

CRIMINAL APPLICATION NO. 427 OF 2019

Indira Dinkar Desai] ...Applicant
(Intervener)

IN THE MATTER OF

Sanjay Babhutrao Sonwane and Anr.] ... Applicants

Versus

The State of Maharashtra] ... Respondent

Mr. Aniket Nikam, Advocate for the Applicant in ABA No.637/19.

Smt. A.A. Takalkar, APP for the State/Respondent.

Mr. Sudhir Hardikar, Advocate for the Applicant in Cri. Appln. No.427/19.

PSI D.S. Kokate attached to Nigadi Police Station, Pimpri Chinchwad present.

CORAM :- SARANG V. KOTWAL, J.

DATE :- 13 JUNE, 2019.

P. C. :-

1. The applicants are seeking anticipatory bail in connection with

C.R.No.17/2019 registered with Nigadi Police Station u/sec.304, 323, 341, 504 r/w 34 of I.P.C.

2. The FIR is lodged on 04/01/2019 by one Indira Desai. In her FIR, she has stated that her son Dharmaraj got married to one Priyanka on 11/02/2017. Initially, Dharmaraj was residing with Priyanka at some other place. There were marital disputes between the couple and therefore Dharmaraj came back to stay with the first informant and her husband who were his parents. On 02/09/2018 when the first informant, her husband, Dharmaraj and first informant's daughter were present in their house, Priyanka's relatives including the present applicants entered their house. Applicant No.1 is father and Applicant No.2 is maternal uncle of Priyanka. It is further stated by the first informant that there were exchange of angry words and they suddenly started assaulting Dharmaraj. The first informant's husband Dinkar was forcefully pushed. He was given a forceful kick blow by Applicant No.2 in his stomach. The husband of the first informant felt giddiness. The assailants continued to quarrel and assault. Thereafter, husband of the first informant was removed to hospital. He succumbed to his injuries on 15/09/2018.

3. On the same day i.e. on 02/09/2018 one non cognizable case was lodged by Dharmaraj against present applicants and two others. I have perused the said N.C. and the postmortem notes. The postmortem notes show that the death was due to “Intra Cranial Bleeding Due To Cerebro Vascular Accident”

4. Heard Mr. Aniket Nikam, Ld. Counsel for the Applicants and Smt.A.A. Takalkar, APP for the State/Respondent.

5. Ld. Counsel for the applicants submitted that the present applicants had merely pushed the deceased. There cannot be intention or knowledge on their part that the deceased would die because of their act. He therefore submitted that the offence u/sec.323 of I.P.C. is made out and not u/sec. 304 of I.P.C. He further submitted that on that very day non cognizable case was registered at the behest of Dharmaraj. In that N.C. name of Applicant No.2 was not mentioned. He further submitted that the FIR was lodged belatedly. Therefore, this delay shows that it was lodged as an after thought.

6. Ld. APP submitted that the offence is serious and the allegations are supported by the medical certificate.

7. Considering the nature of injuries suffered by the deceased, it is quite clear that he had suffered serious injuries in the incident dated 02/09/2018. In the said incident, the first informant had clearly attributed specific roles to both these applicants. This is not the stage in which a finding can be recorded that the offence is not one under Section 304 of I.P.C. but would fall under Section 323 of I.P.C. The offence is of serious nature. The husband of the first informant has lost his life because of marital dispute between his son and his wife and consequent assault. Looking at the manner in which the deceased was assaulted, no case for anticipatory bail is made out. Hence, the following order.

ORDER

1. Application is rejected and stands disposed of accordingly.
2. Consequently, Criminal Application No.427/2019 also stands disposed of.

(SARANG V. KOTWAL, J.)