

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

ANTICIPATORY BAIL APPLICATION NO. 2048 OF 2019

Maheshkumar Nayankumar Navandar	 Applicant
Versus	
The State of Maharashtra	 Respondent

Mr. Anoop U. Patil, Advocate for Applicant.
Ms. S. S. Kaushik, 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 anticipatory 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 one Monika Yerawade, who was the wife of the deceased Sachin. The deceased was working with the contractor Shrikant Jadhav as a mason. It is alleged that the

deceased was working at the site known as Anutham project. This project was being developed by the present applicant. On 20/07/2019 the deceased fell down from the 10th floor of the site and lost his life. Therefore, this offence was registered. The first informant lodged her FIR on the basis of information of deceased given to her by the co-workers Nikhil and Umakant.

3. Heard Mr. Anoop U. Patil, learned Advocate for the Applicant and Ms. S. S. Kaushik, learned APP for the State/Respondent.

4. Learned counsel for the applicant submitted that he had entered into a contract with the contractor Shrikant Jadhav for construction of RCC work. He invited my attention to the contract entered by him with the contractor. There was specific provision in the general terms and conditions that for RCC work, responsibility to provide labour insurance and safety material was on the contractor. He submitted that the deceased was actually working at some other site as per FIR and statement of his friends and co-workers. It is mentioned in the FIR that, the deceased had gone to the applicant's site to collect some material and he was not

actually working at that site. He, therefore, submitted that the applicant cannot be said to have committed the alleged offence.

5. Learned APP relied on the investigation papers which contains statements of his co-workers such as, Akshay Yerawade, Aslam, Nikhil Bansode, Umakant Yerwade, Sagar Yerawade etc. They have mentioned in their statements, particularly, Nikhil has mentioned in his statement that those workers were working on the site known as Jijau Residency, Vijapur road, Solapur. They needed iron hooks and plywood pieces. They were aware that those articles were kept on the site of Anutham project. The deceased was knowing where those articles were kept. He volunteered to bring those articles and went to that site. However, for considerable period he did not return and, therefore, his co-workers went to the site of Anutham project. They saw that the deceased was lying on the sand on the ground. He had fallen from considerable height and he had lost his life. The allegations are that, due to lack of safety measures he had lost his life.

6. I have considered these submissions. Learned counsel for the applicant rightly relied on the contract between the

applicant and the contractor Jadhav. The responsibility of providing safety measures was on the contractor. Though, it is true that the applicant should have been more diligent, but the deceased was not actually working on the applicant's site. He had gone there to take some material. Therefore, it is debatable whether the applicant has really committed the offence of culpable homicide not amounting to murder and any knowledge of such event can be attributed to him. This question will have to be decided during the trial, however, looking at the background of this case, custodial interrogation of the applicant is not necessary. Though the incident is unfortunate, the applicant's custodial interrogation will not yield anything, however, he has to assist the investigating agency in conducting the investigation. The applicant is resident of Latur and he was developing few projects in Solapur. The applicant has landed property and is not likely to abscond. He does not have criminal antecedents, therefore, applicant is protected by anticipatory bail order.

7. Hence, the following order :

ORDER

- (i) In the event of his arrest in connection with C.R. No. 509 of 2019 registered with Vijapur Naka Police Station, Solapur, 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.)