

IN THE HIGH COURT OF JUDICATURE OF BOMBAY
BENCH AT AURANGABAD

2 ANTICIPATORY BAIL APPLICATION NO.947 OF 2021

Ajinath Dharma Thorve
Age : 29 years, occ : service
R/o Pundi, Taluka Ashti,
District Beed.

Applicant.

Versus

The State of Maharashtra.

Respondent.

WITH

CRIMINAL APPLICATION NO. 2145 OF 2021

NAVNATH PANDURANG THORVE

VERSUS

AJINATH DHARMA THORVE AND ANOTHER

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Mr. Gajanan Kadam, Advocate for the applicant.
Mr. S.B. Narwade, A.P.P. for respondent – State.
Ms. Pournima Salve, Advocate holding for
Mr. S.J. Salunke, Advocate assisting the PP.

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CORAM : **PRAKASH D. NAIK, J.**

DATE : 25-10-2021

ORDER :

1. The applicant is apprehending arrest in Crime No.119/2021 registered with Ambhora Police Station, District Beed for the offences punishable under Section 304 of the Indian Penal Code (for short "I.P.C."). First Information Report (for short "F.I.R.") was registered on 21st May 2021.

2. F.I.R. was registered by Shri Navnath Pandurang Thorve. He is brother of victim Sharad Thorve. The victim was

working in M.S.E.B. as a Senior Technician. On 18th May 2021 at about 9.00 a.m. he had joined duty at Kharad Gavhan Phata for repairs of 11 KV electricity . Complainant tried to contact him on his cell phone. There was no response from the victim. Subsequently the complainant came to know that the victim had died due to electrocution. The victim had taken electricity permit for carrying work at 11 KV. On that day the applicant was operator at 33 KV Pimpla. It is alleged that he had switched on the electric current after obtaining permit, which was deliberate act on his part which has resulted in death of victim.

3. The applicant preferred application for anticipatory bail in the Court of Sessions which has been rejected by order dated 3rd August 2021.

4. Learned Counsel for the applicant urged that Section 304 of I.P.C. is not attracted against the applicant in this case. The applicant has been falsely implicated. He is not involved in the act of switching on the electric current having knowledge that the victim was carrying out electricity repairs. Custodial interrogation of the applicant is not necessary. There was call of the deceased to the applicant on 18th May 2021 i.e. on the day of the incident. The call was around 10.48 to 10.50 a.m. The victim had told the applicant to turn on light of Parodi fiddler. The electric current was switched off at 10.51 a.m. on 18th May 2021 and the same was restored at 13.44 p.m. on 19th May 2021. The power off duration from 10.51 a.m. on 18th May 2021 to 13.44 p.m. on 19th May 2021 is 1 Day 2 Hours and

53 Minutes. Reliance is placed on Power Events Report on 19th May 2021. It is submitted that from 10.51 a.m. on 18th May 2021 till 13.44 p.m. on 19th May 2021 there was power failure as electric supply was switched off at the request of the victim. The call timing of the victim to the applicant would match with the occurrence of power failure. It is further submitted that lines of Waghra and Dhanora Sub Station are close to Parodi Fiddler and there is possibility that the current supply may have come from those lines. In the past there was incidence when current supply was stopped and the person had sustained electric shock due to supply. From the Power Event Report, it is clear that electric supply was stopped by the applicant on the request of the victim, while phone call was going on between them and the said fact was informed to the victim. There is also a possibility of cross connection and the current supply might have reached from Parodi Fiddler. Custodial interrogation of the applicant is not necessary. Interim protection was granted to the applicant during pendency of his application before the Sessions Court. The interim order dated 28 May 2021 mentions that the applicant shall not tamper with the evidence and that he shall attend the concerned police station before the Investigating Officer as and when required on written requisition, till final disposal of the application. It is submitted that the applicant had not received such requisition for attendance.

5. Learned A.P.P. submitted that investigation is in progress. Investigation reveals the complicity of the applicant in the

offence. The conversion ensued between the applicant and victim was collected during the course of investigation. Audio clip was heard and the transcript of the said conversion was prepared by recording panchanama dated 7th October 2021. Correspondence is made with the Electricity Department calling for the requisite documents and that the investigation in that regard is required to be conducted. The offence is of serious nature. Considering the nature of the incident, the custodial interrogation of the applicant is necessary.

6. Learned Counsel for the complainant submitted that on account of deliberate act of the applicant, the victim has died due to electric shock. In spite of knowing that the victim was on job for repairing the electricity, the applicant switched off the electric current as a result of which the victim suffered electrocution and died on the spot. The application preferred by the applicant may be rejected.

7. I have perused the documents annexed to this application and the investigation papers. The alleged incident had occurred on 18th May 2021. The victim has died due to electrocution while he was on duty. The applicant has relied upon Event Chart which is also part of investigation papers, which indicates that the electricity connection was switched off on 18th May 2021 at about 10.51 a.m. and the same was restored on 19th May 2021 at 13.44 p.m. The panchanama with regard to the transcript of conversion ensued between the victim and applicant also indicates that the current was switched off on the request of the victim. Prima facie,

there is no cogent evidence to indicate that the applicant was involved in switching off the electric current with the knowledge that the victim was on duty for which act the death of the victim was caused. It is also apparent that the victim was granted interim protection by the Sessions Court as well as by this Court and he was not called for interrogation by the investigation agency.

8. In the light of the factual matrix as stated above, the relief under Section 438 of the Code of Criminal Procedure can be granted to the applicant.

ORDER

- (i) ABA No. 947 of 2021 is allowed.
- (ii) In the event of arrest of the applicant in Crime No.119/2021 registered with Ambhora Police Station, District Beed, he be released on bail on executing P.R. bond in the sum of Rs. 25,000/- with one or more sureties in the like amount.
- (iii) The applicant shall appear before the Investigating Officer on 27.10.2021, 28.10.2021 and 29.10.2021 and thereafter as and when called for.
- (iv) ABA No. 947 of 2021 stands disposed of. Criminal Application No. 2145 of 2021 also stands disposed of.

(PRAKASH D. NAIK, J.)