

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

ANTICIPATORY BAIL APPLICATION NO. 436 OF 2021

Nitesh Gangji Bhanushali ... Applicant

Versus

The State of Maharashtra ... Respondent

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Mr. Sanjay Singh, for the Applicant.
Mrs. Anamika Malhotra, APP for the Respondent – State.
Mr. Rajan Dhuri, P.S.I., Sakinaka Police Station, present.

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CORAM : PRAKASH D. NAIK, J.

DATE : 24th FEBRUARY, 2021

PC :

. This is an application for anticipatory bail in connection with C.R.No.1360/2020 registered with Sakinaka Police Station for the offences under Sections 304, 323, 504 and 506 of Indian Penal Code. The F.I.R. was lodged on 16th December 2020.

2. The case of the prosecution is that, the brother of the informant used to install stall of Egg Burji near Jyoti Kirana Store in the evening from 4.00 p.m. to 11.00 p.m. The owner of Jyoti Kirana Store his son used to quarrel with informant's brother was asked to move the stall. The brother of the informant was suffering from high

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blood pressure. The accused were knowing about it. On 13th December 2020 informant received call and he was informed that informant's brother is quarreling with accused. Complainant reached the spot. Owner of Jyoti Stores Bhanushali and his son (applicant) were fighting with brother of informant. The applicant charged at accused (brother of informant). He was abused. Complainant intervened. The victim was frightened and sweating. He was unable to speak. He was taken to Rajawadi Hospital. He stated that Nitesh had assaulted him. where he was declared dead.

3. Learned APP tendered post mortem report. The opinion as to cause of death was given as Coronary Artery disease.

4. The contention of applicant is that he has been falsely implicated. The incident had occurred on 13th December 2020. F.I.R. is lodged on 15th December 2020. Offence under Section 304 I.P.C. is not made out. I have perused F.I.R. and post mortem report. Considering the factual aspects, applicant need not be subjected to custodial interrogation.

5. Hence, the following order.

ORDER

- (i) Anticipatory Bail Application No.436 of 2021, is allowed;

- (ii) In the event of arrest of the applicant in C.R.No.1360/2020 registered with Sakinaka Police Station, the applicant 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 report the investigating officer as and when called for;
- (iv) Anticipatory Bail Application No.436 of 2021, stands disposed of.

6. This order will be digitally signed by the Private Secretary/Personal Assistant of this Court. All concerned will act on production by fax or email of a digitally signed copy of this order.

(PRAKASH D. NAIK, J.)