

Anand

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

ANTICIPATORY BAIL APPLICATION NO. 2129 OF 2019

Domnik Kalmen Kini .Applicant

Vs.

The State of Maharashtra .Respondent

**WITH
ANTICIPATORY BAIL APPLICATION NO. 2132 OF 2019**

William John Koli @ Vijay .Applicant

Vs.

The State of Maharashtra .Respondent

Mr. Shreeram Shirsat a/w Mr. Amandeep Singh, Senior Advocate,
for the Applicant in ABA No. 2129 of 2019

Mr. Rafique A. Shaikh, Advocate, for the Applicant in ABA No.
2132 of 2019

Mr. S. V. Gavand, APP, for the Respondent – State

Mr. A. G. Jagtap, P. I., Dharavi Police Station, Mumbai present

CORAM : SMT. ANUJA PRABHUDESSAI, J.

DATE : 06.08.2021

(THROUGH VIDEO CONFERENCING)

P. C.

. These are Applications filed under Section 438 of the
Code of Criminal Procedure, 1973 by the aforesaid Applicants

apprehending their arrest in Crime No. 311 of 2019 registered with the Dharavi Police Station, Mumbai for the offences punishable under Sections 337, 338, 304(2) r/w 34 of the Indian Penal Code.

2. The said crime was registered pursuant to the First Information Report lodged by Suraj Bhandare. The first informant had alleged that his father, Oblesh Bhandare, who was looking at the construction site, fell down from the second floor of the building under construction and expired as a result of the injuries sustained in the said incident. The first informant had alleged that the owner of the said construction, Applicants and the Contractor had not taken due pre-caution to avoid the occurrence that the death of his father was caused due to their negligence. The crime was initially registered only under Sections 337 and 338 of the Cr.PC. which was subsequently converted into offence under Section 304(2) of the Indian Penal Code.

3. The record reveals that the Applicant – Domnik Kini had merely suggested the name of the contractor, whereas the

Applicant – William is the grandson of the owner of the house which was being constructed. Prima facie, there is no material on record to indicate that the death of Oblesh Bhandare was caused due to the negligence of these Applicants. Considering all these facts, this Court (Coram : Revati Mohite Dere, J.) by order dated 30.09.2019 had granted interim protection to the Applicants with directions to report to the investigating officer on the dates specified in the order. It is stated that the Applicants have complied with the conditions and co-operated with the investigation. Learned APP, under instructions states that investigation has been completed and that the presence of the Applicants is not required for custodial interrogation. He states that charge-sheet was not filed because of pendency of these Applications and that the same will be filed within one week from today. Considering the facts and circumstances of the case, the Applications are allowed on the following terms and conditions :-

O R D E R

- (i) In the event of arrest of the Applicants in C. R. No. 311 of 2019 registered with the Dharavi Police Station, Mumbai, they be enlarged on bail on furnishing P. R. Bond in the sum of Rs.

15,000/- each with one or two sureties in the like amount;

(ii) The Applicants shall furnish their current address and mobile contact numbers and / or change of residence or mobile details, if any, to the investigating officer;

(iii) The Applicants shall not tamper with the evidence or attempt to influence or contact the complainant, witnesses or any person concerned with the case.

4. The Applications stand disposed of.

(SMT. ANUJA PRABHUDESSAI, J.)