

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD**

ANTICIPATORY BAIL APPLICATION NO.1163 OF 2022

1. Sayyad Anzar Ahmed Quadri
2. Quadri Sayyad Zohed Ahmed ...Applicants

Versus

The State of Maharashtra ...Respondent

...

Advocate for Applicants : Mr. Prashant P. Giri h/f Ms. S.V. Dound
APP for Respondent/State : Mr. S.B. Narwade

...

CORAM : S.G. MEHARE, J.

DATED : 04th OCTOBER, 2022

PER COURT:-

1. Heard learned counsel for the applicants and learned APP for the State.
2. The facts and allegations have been discussed in detail in an order dated 05.09.2022. Considering the role attributed to the applicants, interim protection was granted.
3. Learned APP has strongly opposed the application contending that the applicants were the owner of the quarry where the deceased was working. He has also argued that subsequently, it has been transpired that the said stone quarry was not allotted to any person. Therefore, the applicants have committed a more serious offence. He has pressed into service the statement of one of the labour and vehemently argued that the applicants had proposed blast

in the stone quarry. Therefore, the deceased was punching holes. He has also argued that the applicants have committed this all illegally without having any license or permit to extract the stones from the quarry. It was purely a theft. The deceased was working on the instructions of the applicants. Hence, they have direct connection with the incident. He would submit that the custodial interrogation of the applicants is essential to know how much quantity of stone has been extracted by the applicants before the incident. He also argued that the offence is serious and an innocent labour lost his life. Therefore, the application deserves to be dismissed.

4. In reply, learned counsel for the applicants would submit that to attract Section 304 (II) of the Indian Penal Code, the higher degree of knowledge is required. The FIR itself reveals that it was purely an accident. He has a specific case that the applicants had no concern with the said quarry; however, they have a crusher near and close to the quarry. There was a Murum sliding. Some people gathered there; however, the applicants were never present on the spot of the incident. He would submit that it was purely an accident. The applicants have no concern with the accident. They have been falsely implicated in the crime as they have a crusher near the said quarry.

5. The allegations reveal that the deceased went to punch the hole in the quarry with a tractor. The statements of the witnesses

reveal that the workers were under the impression that the said quarry was owned by both applicants. It is not in dispute that there was a sliding of Murum in the quarry and the labour died. The prosecution has no evidence that any time the applicants had a control over the said quarry. Except the statement of the labour, there is nothing to show that the applicants have concern with the said incident. Apparently, the deceased died under Murum due to sliding. The family of the deceased have a right to claim the compensation under the Workmen's Compensation Act if they prove the employee and employer relation. Be that as it may, it appears that the accident happened in the quarry and a poor labour died. However, the custodial interrogation of the applicants would serve no purpose. Hence, the application deserves to be allowed. Therefore, the following order :

ORDER

- I) Application is allowed.
- II) Interim protection granted to the applicants by order dated 05.09.2022 is confirmed on the same terms and conditions with an additional condition to attend the police station as and when called on written notice.

(S.G. MEHARE, J.)