

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

ANTICIPATORY BAIL APPLICATION NO. 77 OF 2022

Mr. Sudheer Chaubaykant Jha	 Applicant
v/s.	
The State of Maharashtra	 Respondent

Mr. Akhilesh Chaubey i/b. AVC and Associates for the Applicant.
Mr. S.H. Yadav, APP for the State.

CORAM: SMT. ANUJA PRABHUDESSAI, J.

DATED : 07th APRIL, 2022.

P. C. :-

1. This is an Application under section 438 of Cr.PC. filed by the aforesaid Applicant for pre-arrest bail in C.R.No.911/2021 registered with Malad Police Station. The offence was initially registered under section 304(A) of the Indian Penal Code. Subsequently, section 304 of IPC has been added.

2. Heard Mr. Chaubey, learned counsel for the Applicant and Mr. S.H. Yadav, learned APP for the State. I have perused the records and considered the submissions advanced by the learned counsel for the respective parties.

3. The Applicant is the proprietor of the proprietorship concern M/s. New Bharat Elevator Company. It is the case of the prosecution

that the Applicant was maintaining the lift in Kaveri Building No.13, Ramnagar, Chincholi Bunder Road, Malad (W). On 19/12/2021, a young boy of 11 years old died as he was caught partially in the lift which was not functioning. Pursuant to the complaint lodged by the brother of the deceased, crime under section 304(A) was registered against the Applicant and the technician. Subsequently, the offence under section 304 has been added. It is not the case of the prosecution that the death of the child was caused intentionally as to attract section 304(1) of IPC. It is seen that the Applicant had engaged a technician for maintenance of lift. The material on record indicates that he was a trained technician with sufficient experience. Hence, prima facie, ingredients of section 304(2) are not made out.

4. Under the circumstances, in my considered view, this is not a case which would justify custodial interrogation. Hence, the Anticipatory Bail Application is allowed on following terms and conditions :-

(a) In the event of arrest of the Applicant in C.R.No.911/2021 registered with Malad Police Station, he shall be released on bail on furnishing bail bonds in the sum of Rs.25,000/- with one or two sureties in the like amount ;

(b) The Applicant shall report to the Investigating Officer as and when directed by the Investigating Agency ;

(c) The Applicant shall keep the Investigating Officer informed of his current address and mobile contact numbers, and/or change of residence or mobile details, if any, from time to time.

5. The Application stands disposed of.

**PREETI
H JAYANI**

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by PREETI H
JAYANI
Date: 2022.04.08
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(SMT. ANUJA PRABHUDESSAI, J.)