

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
BAIL APPLICATION NO.1276 OF 2020

Suresh Naresh Chavan] ... Applicant

Vs.

The State of Maharashtra] ... Respondent

...

Mr. Ayush Pasbola i/b Mr. Rahul Arote for the applicant.

Mr. S.H. Yadav, A.P.P. for the State.

...

CORAM : SMT. BHARATI DANGRE, J.

DATED : 15TH JUNE, 2022.

P.C.:-

1. The applicant came to be arrested on 25/07/2019 in C.R. No.I-252 of 2019 registered with Bhoiwada Police Station and is facing a charge under Section 304, Part II of the IPC, which provided for punishment for culpable homicide not amounting to murder and Part II contemplate an act, by which the death or bodily injury is caused or is likely to cause death, but without any intention and had knowledge that the injury was likely to cause death. The material compiled in the charge-sheet has to be appreciated in the wake of the aforesaid provision.

2. The applicant is a contractor and was assigned the work of construction of a toilet block, who has engaged the services of one Mohd. Irfan Ansari and the deceased Mursalin to undertake the said work. On 26/06/2019, while they were engaged in the said work and were cutting the plywood with the help of electric cutting machine on the wet floor, on account of the rain, the deceased, who was asked to remove the wire, on approaching the Board, from where the electric connection was obtained to one of the toilet blocks, on touching the wire, he received an electric shock and fell down. Mohd. Irfan Ansari, who was working there immediately asked one of the co-worker to put off the main switch and the deceased was taken for medical treatment. But, he was declared brought dead. Similar statement of another co-worker Mohd. Shaikh is also compiled in the charge-sheet.

3. It is not in dispute that the applicant had engaged the deceased to construct the toilet block, but the statements of the two witnesses, who were working with the deceased, clearly reveal that the water had accumulated due to rain and probably, the electric wire came in contact with the water and the electric power was passed on to him and he died due to cardiac arrest due to electric shock.

4. The applicant face a charge of the said act being done,

which had caused the death, having knowledge, but without any intention and the submission of learned A.P.P. that the contractor was negligent in not providing the necessary safety equipments, can be considered at the time of trial. The factum of the rain fall has probably resulted into the incident.

5. On completion of the investigation, charge-sheet is filed and the applicant remains incarcerated since 2019. It is informed that till date, even the charge has not been framed. The applicant cannot be incarcerated indefinitely, since if he is convicted, he will at the most, suffer an imprisonment of a description, which may extend to ten years. He has already undergone more than three years of imprisonment. He is, therefore, released on bail subject to the stipulation that he shall attend to the trial on regular basis and not miss any date in the trial. Hence, the following order:

ORDER

(a) The applicant – **Suresh Naresh Chavan** shall be released on bail in C.R. No.I-252 of 2019 registered with Bhoiwada Police Station, District Thane on executing P.R. bond to the extent of Rs.25,000/- and furnishing one or two sureties of the like amount.

(b) The applicant shall not directly or indirectly

make any inducement, threat or promise to any person acquainted with facts of case and shall not tamper with prosecution evidence.

(c) The applicant shall co-operate and attend the trial regularly unless exempted by the Trial Court.

6. The application is allowed in the aforestated terms.

7. All parties are directed to act on the downloaded copy of the order supplied by the Advocate under his seal and signature.

[SMT. BHARATI DANGRE, J.]