

SA Pathan

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

ANTICIPATORY BAIL APPLICATION NO.1886 OF 2023

Sunil Shivaji Honmane ... Applicant

V/s.

The State of Maharashtra ... Respondent

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PATHAN

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Mr. A. Karim Pathan i/by Mr. Zahir Shaikh, for the
Applicant.

Mrs. Rutuja Ambekar, APP for the State-Respondent.

CORAM : AMIT BORKAR, J.

DATED : JULY 31, 2023

P.C.:

1. Apprehending arrest in connection with C.R.No.150 of 2023 registered at Market Yard police station, Pune for offence punishable under Section 304 of the Indian Penal Code, 1860 (for short 'IPC'), the applicant is seeking relief of pre-arrest bail under Section 438 of the Code of Criminal Procedure, 1973 (for short 'Cr.P.C.').

2. According to prosecution, the informant Mohan Jadhav, Assistant Police Sub-Inspector of Market Yard police station, received phone call on 13 June 2023 at 1:00 am. from security Guard of Market Yard, Market Committee, who informed that there is smoke in Revalsiddh hotel and also noise of hue and cry from inside the said hotel. Therefore, the informant went there along with staff. The fire brigade vehicle and ambulance were also

called there. The door of Revalsiddh hotel was opened with the help of axe. After extinguishing fire when the informant went inside the hotel, he found three labours were in unconscious condition. Therefore, they were referred to hospital and they declared dead. It is alleged that the present applicant is owner of the said hotel and has not installed fire fighting equipment in the hotel. The articles were kept near the shutter, therefore, the labours could not come outside of the hotel and died due to fire and suffocation.

3. The applicant, therefore, applied under Section 438 of Cr.P.C. before learned Sessions Judge which came to be rejected by order dated 28 June 2023.

4. At the outset, learned Advocate for the applicant states that the applicant is ready to pay Rs.50,000/- per victim by cheque. He undertaks to hand over the said cheques to the investigating officer who will in turn hand it over to the legal representatives. In case, there is dispute of legal representatives each legal representative shall be entitled equal portion of the amount of cheque.

5. On perusal of the record, it appears that it is alleged that the incident took place due to non-installation of fire fighting equipment in the hotel. Therefore, labours could not come outside the hotel and died due to fire and suffocation.

6. Considering the allegations made against the applicant, *prima facie*, subject to further investigation and material, the ingredients of Section 304 of IPC are not fulfilled. The applicant is, therefore, entitled to relief under Section 438 of Cr.P.C. As

considering the facts of the case, custodial interrogation of the applicant is not necessary. The applicant has no antecedents to his discredit. Hence, following order:

- a) In the event of arrest in connection with C.R.No.150 of 2023 registered at Marketyard police station, Pune for offence punishable under Section 304 of IPC, the applicant be released on bail on furnishing P.R. bond of Rs.25,000/-, along with one or two sureties in the like amount.
- b) The applicant shall remain present before the concerned police station on 7th, 9th and 11th August, 2023 between 11:00 am to 2:00 pm thereafter, as and when called by the investigating officer.
- c) The applicant shall not directly or indirectly make any inducement, threat or promise to any witness acquainted with the facts of the case so as to dissuade him from disclosing such facts to the court or to any police officer.
- d) The applicant shall not obstruct or hamper the police investigation and not to play mischief with the evidence collected or yet to be collected by the police.
- e) The applicant shall, at the time of execution of the bond, furnish his address and mobile number to the investigating officer, and the Court concerned, and shall not change the residence till the final disposal of the case.
- f) The applicant shall pay cheque of Rs.50,000/- each victim, hand over to the investigating officer who will in turn

hand it over to legal representatives of the victims.

7. The anticipatory bail application stands disposed of in above terms. No costs.

(AMIT BORKAR, J.)