

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY,
NAGPUR BENCH, NAGPUR.**

CRIMINAL APPLICATION (ABA) NO.176 OF 2023

(Dashrath Zunbaji Kalokar Vs. State of Maharashtra)

Office Notes, Office Memoranda of
Coram, appearances, Court's Orders
or directions and Registrar's order

Court's or Judge's Order

Shri S.V. Sirpurkar, Advocate for the applicant.
Shri M.J. Khan, APP for the State.

CORAM:- URMILA JOSHI-PHALKE, J.
DATED :- JUNE 15, 2023.

Heard.

2. Present application is filed by the applicant for grant of anticipatory bail in the event of his arrest in respect of Crime No.334/2022 registered at police station Ladkhed, District Yavatmal for the offence punishable under Section 304A and 304 of the Indian Penal Code.

3. The applicant is apprehending arrest at the hands of police as crime is registered on the basis of report lodged by Santosh Vithobaji Garpagare on an allegation that on 06/09/2022 his brother Shrawan and his friend Chhatrapati along with other friends namely Nikhil and Dheeraj went for fishing in the stream near the field of the applicant. At that time Shrawan and Chhatrapati came in contact with live wire and died on the spot. The allegation against the present applicant is that the applicant has used electric fencing on the boundaries of his field and due to which the deceased persons received electric shock and succumbed to the death.

4. Initially, on the basis of this report police registered the offence under Section 304(A) and subsequently the offence under Section 304 Part-II is added.

5. As per the contention of the applicant, initially he surrendered before the Court and he released on bail. Though he has shown his willingness to cooperate with the Investigating Agency the Investigating Officer never called him for the investigation purpose. Thus, his custodial interrogation is not at all required and hence, he be released on anticipatory bail in the event of his arrest.

6. Said application is strongly opposed by the State on the ground that two persons have lost their life due to the negligence of the present applicant. His custodial interrogation is required and hence bail application deserves to be rejected.

7. Heard learned Counsel for the applicant. He submitted that even taking the allegation as it is the custodial interrogation of the present applicant is required as nothing is to be recovered from the present applicant. Now investigation is already completed and charge-sheet is under scrutiny. Considering the nature of the offence for which punishment upto 10 years is provided and custodial interrogation of the applicant is not required. He be released on bail in the event of his arrest.

8. Per contra, learned Additional Public Prosecutor submitted that considering that two persons have lost their life in the alleged incident, applicant is not entitled for anticipatory bail.

9. Having heard both the sides and on perusal of the record it is apparent that the incriminating articles that is the wire which was used for the fencing is already seized by the police. Nothing is to be recovered from the present applicant. Though applicant is initially released on bail by the trial Court he was never called for the investigation purpose. Moreover, considering the allegation as it is his physical custody is not at all required only for the interrogation purpose. Thus, applicant has made out a case for grant of anticipatory bail in the event of his arrest. Accordingly, I proceed to pass the following order :

(i) The application is allowed.

(ii) The applicant - Dashrath Zunbaji Kalokar in the event of arrest in Crime No.334/2022 registered at police station Ladkhed, District Yavatmal for the offence punishable under Section 304A and 304 of the Indian Penal Code, be released on bail on executing P.R. Bond in the sum of 25,000/- (Rs. Twenty five thousand) with one solvent surety in the like amount.

(iii) The applicant shall attend the concerned police station as and when

required for investigation purpose.

(iv) The applicant shall furnish his cell phone number and detail address along with address proof and the details of two closed relatives and address with their address proof.

(v) The applicant shall not directly or indirectly make any inducement, threat or promise to any person acquainted with the facts of the case and shall not tamper the prosecution evidence.

(URMILA JOSHI-PHALKE, J.)

**Divya*