



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

CRIMINAL APPLICATION (ABA) NO. 519 OF 2023

Anil S/o Manikrao Gaurkar

.Vs.

State of Maharashtra, through PSO PS, Girad Tah. Samudrapur Dist. Wardha

Office Notes, Office Memoranda of Coram,
appearances, Court's orders of directions Court's or Judge's orders.
and Registrar's Orders.

Mr R.M. Patwardhan, Advocate for the applicant.
Mr. A.V. Palshikar, APP for the State.

CORAM : G.A. SANAP, J.

DATE : 20/10/ 2023.

Heard finally with consent of learned Advocate
for the applicant and learned APP for the State.

2. Applicant/accused apprehends his arrest in
Crime No.185/2023 registered at Police Station Girad,
District Wardha for the offence punishable under Section
304 of the Indian Penal Code,1860.

3. Learned Advocate for the applicant submitted
that in terms of the conditions imposed by this Court
while granting ad-interim bail, the accused has extended
full cooperation to the police. Learned Advocate
submitted that the investigation is almost over and as such
for the purpose of interrogation, arrest of the accused is

not necessary. Learned Advocate submitted that considering the fact that the accused being the owner of the land, took preventive measures to protect his land as well as goats kept in the shade constructed on the land. Learned Advocate submitted that deceased had no business to venture into the land of the accused in the night at about 10.30 P.M. Learned Advocate pointed out that torch and net used by the deceased for the purpose of hunting the rabbits were not found by the police on the spot. Learned Advocate further submitted that at the most, the offence under Section 304-A of the Indian Penal Code would get attracted and not the offence under Section 304 of the Indian Penal Code.

4. Learned APP submitted that in order to give finishing touches to the investigation custodial interrogation of the accused is necessary. Learned APP in all fairness admitted that electric wire, which was used for providing electric current to the fencing, was seized on the date of the incident. Learned APP submitted that for the purpose of seizure of any article custody of the accused may be necessary.

5. It is true that two persons have died in the

incident. It is seen that the accused, in order to protect his standing crop from wild animals or protect his goats, had provided electric current to the fencing. The deceased along with one Akhil in the night had gone there and came into contact with this live electric wire and died due to electric shock. The accused, as can be seen from the record, was not present on the spot. According to him, he came to know about this incident on the next day.

6. In my view, at this stage, it would be very difficult to test the merits of the submissions as regards the nature of the offence that would get attracted in this case. The crime has been registered under Section 304 of the Indian Penal Code i.e. culpable homicide not amounting to murder. In this case, at the most keeping in mind the admitted facts, the knowledge could be attributed to the accused. The investigation in this crime is almost over. The custodial interrogation is not necessary for the purpose of seizure of any article in the crime. It is not the grievance of the prosecution that after granting interim protection, the accused has not cooperated. In the facts and circumstances, in my view, the application deserves to be allowed.

7. Accordingly, the application is **allowed**.

i) The order dated 03.08.2023 granting ad-interim anticipatory bail is **confirmed** on the same terms and conditions.

8. Accordingly, Criminal Application stands disposed of.

(G. A. SANAP, J.)

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