



**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD**

ANTICIPATORY BAIL APPLICATION NO. 755 OF 2024

Rahul S/o Prakash Wakle
Age: 30 years, Occu.: Service,
R/o. Yaldari Camp, Tq.Jintur,
Dist.Parbhani.

....Applicant
(Org. Accused No.1)

Versus

1. The State of Maharashtra,
Through Police Inspector,
Bamani Police Station,
Tq.Jintur, Dist.Parbhani.

2. Superintendent of Police,
Office of Superintendent of Police,
Parbhani.

.....Respondents

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Advocate for Applicant : Mr.Sunil G. Magre
APP for Respondents-State : Mr.A.A.A.Khan

.....
AND

ANTICIPATORY BAIL APPLICATION NO. 764 OF 2024

1. Sudarshan s/o Haridas Gavane
Age: 34 years, Occu.: Service,
R/o.Lingayat Galli, Mukhed,
Dist.Nanded.

2. Dipakkumar s/o Shobhelal Patle
Age: 32 years, Occu.: Service,
R/o.: Rajegaon, Gondiya.

....Applicants

Versus

1. The State of Maharashtra,
(Through Bamni Police Station,
Dist.Parbhani.

2. Superintendent of Police,
Dist.Parbhani.

.....Respondents

.....
Advocate for Applicants : Mr.Nilesh S.Ghanekar
APP for Respondents-State : Mr.A.A.A.Khan

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CORAM : ABHAY S. WAGHWASE, J.

RESERVED ON : 11 JULY, 2024
PRONOUNCED ON : 12 JULY, 2024

ORDER :

1. Apprehending arrest in Crime No.0037 of 2024, registered at Bamni Police Station, Tq.Jintur, Dist.Parbhani, for offence punishable under Section 304 read with 34 of the Indian Penal Code (IPC), applicants have pressed into service instant anticipatory bail applications by invoking Section 438 of the Code of Criminal Procedure.

2. Mr.Ghanekar, learned Counsel for the applicants in Criminal Application No.764 of 2024 pointed out that brother of informant died due to accidental electric shock. He pointed out that alleged incident is of 10-03-2024, but informant / brother of deceased Arun, who is a Police Patil, has lodged above crime after nine days of the incident and as such it is delayed FIR. Inviting attention of the Court to the contents of the FIR, learned Counsel pointed out that even complaint is on the basis of hearsay information. He further pointed

out that there are allegations that deceased was made to rectify fault on a electric pole in which there was electricity current. That there are allegations of commission of offence under Section 304 read with 34 of the IPC. Learned Counsel pointed out that occurrence is purely accidental. That report of Electrical Inspector issued on 27-03-2024 attributes negligence to deceased also for not taking precautionary measures. According to learned Counsel, sometimes inspite of shutting off and switching off main connection, due to reverse current supply, such incidents are reported to be taking place. That episode in case in hand is also of such nature. He pointed out that even otherwise offence is of only Section 304 of the IPC i.e. culpable homicide not amounting to murder. That there was no intentional act or negligence. That it is a pure accident. That applicants are named because they are Assistant Engineer and Operator respectively in the Electricity Department. For all above reasons, learned Counsel pray to grant relief as the applicants are ready to abide by all and any conditions imposed by this Court.

3. Mr.Magre, learned Counsel for the applicant in Anticipatory Bail Application No.755 of 2024 adopts the arguments made by Mr.Ghanekar, learned Counsel for the applicants in Anticipatory Bail

Application No.764 of 2024 and he prays too grant relief as prayed for.

4. While opposing bail applications, learned APP brought to the notice of this Court the opinion received by the Investigating Officer on queries raised during investigation. That applicants are responsible for getting work done. That there is death and hence, a serious incident. According to learned APP, for proper and effective investigation, custodial interrogation of the applicants is necessary and so he prays to reject both the applications.

5. After considering the submissions advanced by each of the sides and on going through the FIR, admittedly and apparently, occurrence of 10-03-2024 is reported on 19-03-2024. It transpires from FIR that deceased Arun, who was engaged by Electricity Department by making honourary payment to detect fault in a line on a complaint, he and Wakale went to rectify the same. Complainant claims that, after hearing the incident in the evening, when he went, he learnt that his brother deceased Arun climbed on electricity pole to detect the fault, upon which, deceased allegedly, while climbing on the electricity pole, suffered electric shock and died. Copy of the report drawn by Electrical Inspector, which is

placed on record by learned Counsel for applicants, shows that opinion has been drawn that the incident took place due to getting unauthorized work done, coupled with failure of deceased to take necessary precautions. Taking the said preliminary report into consideration and the nature of offence, investigation can be carried out even by securing presence of the applicants.

Considering the nature of allegations, *prima facie* nothing appears to be recovered from applicants, who have already undertaken to co-operate in the investigation and abide by all conditions imposed by this Court. Therefore, relief as prayed deserves to be granted. Accordingly, following order is passed :

ORDER

(i) Anticipatory Bail Application nos.755 of 2024 and 764 of 2024 are allowed.

(ii) In the event of arrest of Rahul S/o Prakash Wakle (applicant in ABA No.755 of 2024), Sudarshan s/o Haridas Gavane and Dipakkumar s/o Shobhelal Patle (applicants in ABA No.764 of 2024), in connection with Crime No.0037 of 2024, registered with Bamni Police Station, Tq.Jintur, Dist.Parbhani, for offence punishable under Section 304 read with 34 of the Indian Penal Code, they be released on executing Personal Bond of Rs.15,000/- each with one surety each in the like amount.

(iii) Applicants shall not in any manner try to contact and/or influence prosecution witnesses and shall not tamper prosecution evidence.

(iv) Applicants shall remain present in the concerned Police Station on every Monday, Wednesday and Saturday between 09:00 a.m. to 01:00 p.m. till filing of the chargesheet.

(ABHAY S. WAGHWASE)
JUDGE

SPT