



IN THE HIGH COURT OF JUDICATURE OF BOMBAY
BENCH AT AURANGABAD

ANTICIPATORY BAIL APPLICATION NO. 2093 OF 2023

Faizan Farozali Sayyed

....Applicant

VERSUS

The State Of Maharashtra

.....Respondent

.....
Mr. K.N. Shermale, Advocate for applicant

Mr. R.B. Dhaware, APP for State

Mr. A.A. Mukhedkar, Advocate for informant

.....

[CORAM : NITIN B. SURYAWANSHI, J.]

DATE : 02nd MAY, 2024

ORDER :

1. Applicant apprehends arrest in C.R. No. 106/2023, registered with Sindkhed Police Station, Dist. Nanded, for offences punishable under sections 304, 304(A) and 338 of Indian Penal Code.

2. FIR is lodged by Datta Madavi alleging that he has younger brother namely Sanjay Kishan Madavi and Shubham Pendor and Sumit Marape are resident of his village. On 03.10.2023 his brother Sanjay along with Shubham Pendor and Sumit Marape went for construction of sewage water drain in ward no. 5 of Wai Bazar, Taluka- Mahur. While doing the said

Bhagyawant Punde

work, a wall 30 feet in length and 8 feet in height, since was constructed with inferior quality material fell on the labours at 11.15 am, due to which his brother Sanjay, Shubham Pendor and Sumit Marape got serious injuries. They were admitted in rural hospital, Mahur. Sanjay expired at 1.00 pm during treatment. Shubham Pendor and Sumit Marape were admitted in Government hospital, Yavatmal. Shubham Pendor expired on 04.10.2023. Sumit Marape was discharged after treatment. Informant was alleged that the concerned agency and contractor is responsible for causing death of two labours. Applicant is the contractor of said work.

3. Heard learned advocate for applicant, learned APP for State and learned advocate for informant. Perused the investigation papers.

4. It appears that applicant has failed to take insurance of laborers and therefore he has landed himself in difficulty. According to applicant, this was his first contract granted to him from educated unemployed category. Inadvertently he failed to take insurance of laborers working with him. Unfortunately two people have lost their lives in the accident occurred at site.

5. To show his *bonafides*, applicant has shown willingness to deposit Rs. 2,00,000/- towards compensation, without prejudice to his rights and contentions.

6. Learned advocate for informant submits that informant's right to compensation needs to be protected. This Court is only considering application for anticipatory bail, hence, there is no question of considering right of family members of deceased to seek compensation. They are at liberty to adopt appropriate legal proceeding in that behalf.

7. Coming to the facts of the present case, considering the allegations made in the FIR and material collected during the investigation, nothing is to be recovered from applicant. Therefore, his pre-trial custodial detention is not necessary. Applicant has no criminal antecedents. He is permanent resident of Saudagar Colony, Taluka- Mahur, Dist. Nanded, and has deep roots in the society. He will not abscond if released on anticipatory bail. Applicant was granted interim protection and he has co-operated in the investigation.

8. In the result, application is allowed by confirming interim protection granted to applicant by order dated 19th

December, 2023.

9. Applicant shall deposit amount of compensation of Rs. 2,00,000/- in this Court, within four weeks from today.

10. Till filing of charge sheet, applicant shall attend the concerned police station as and when called by investigating officer and shall co-operate in the investigation. Applicant shall not tamper the prosecution evidence.

[NITIN B. SURYAWANSHI, J.]