



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

46 ANTICIPATORY BAIL APPLICATION NO. 2073 OF 2024

1. SURENDRA NANASAHEB KHAIRNAR

2. MAHADEV GOVIND PATIL

VERSUS

THE STATE OF MAHARASHTRA

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Advocate for Applicant :

Mr. R. N. Dhorde, Senior Advocate i/b. Mr. Mr. Joshi Prabhakar K.

APP for Respondent/State: Mr. S. B. Pulkundwar

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WITH

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ANTICIPATORY BAIL APPLICATION NO. 2075 OF 2024

DNYANESHWAR KONDIBA RITHE

VERSUS

THE STATE OF MAHARASHTRA

...

Advocate for Applicant : Mr. R. N. Dhorde, Senior Advocate i/b. Mr.
Joshi Prabhakar K. & Mr. Gangtore Vijay Y.

APP for Respondent/State: Mr. S. B. Pulkundwar

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CORAM : ARUN R. PEDNEKER, J.

DATE : 09th DECEMBER, 2024

PER COURT:

1] Heard learned Senior Advocate for the applicants and the
learned APP for the respondent-State.

2] The applicants have approached this Court apprehending
arrest in connection with Crime No.0463/2024, dated 17.11.2024,

registered with Karmad Police Station, District Aurangabad, for the offences punishable under Sections 105 & 3(5) of the Bharatiya Nyaya Sanhita, 2023.

3] The gist of the matter is that company maintains 3 Silo tanks. There was leakage in one of the silo tank, which was attached to the machineries of manufacturing process. Accordingly, at about 01:00 p.m. it was decided to weld the crack by providing supporting materials, such as tin which was to be attached on the leakage side. At the relevant time, three persons; Surendra Khairnar - Assistant Manager Safety, Mahadev Patil – General Manager Maintenance and Dnyaneshwar Rithe – Labour Contractor had given instructions to the labourers to stop the leakage, however, no protection was given to the staff, so also, there was no training provided to the staff to stop the leakage. While carrying out the repairing work the tank exploded and in the accident 3 persons lost their lives. One of the deceased is from the company and 2 are labourers.

4] The learned Senior Advocate for the applicants submits that in the unfortunate incident people have lost their life, however, applicability of Section 304 is unwarranted. He submits that in an identical fact situation this Hon'ble court at Principal Seat by order dated 11.12.2023 in ABA/3440/2023, wherein similar allegations were made in the case of explosion which had occurred in a factory in which 11 workmen died, the court has observed that the management of the factory must be held accountable for the incident, it's causes and consequences. However, the question that came up for consideration before the court is, whether offences punishable under Section 304

and 308 of the Penal Code are prima facie made out qua the applicants therein. Similar issue arises in the present matter.

5] Considering the position of law, even in the present situation, applicability of Section 304 of IPC corresponding to Section 105 of the BNS should be a matter requiring consideration.

6] As such, in the meanwhile, there shall be interim order in the following terms :-

A] Till the next date, in the event the applicants are arrested in connection with Crime No.0463/2024, dated 17.11.2024, registered with Karmad Police Station, District Aurangabad, for the offences punishable under Sections 105 & 3(5) of the Bharatiya Nyaya Sanhita, 2023, they shall be released on bail on furnishing PR bond of Rs.15,000/- each with one or two sureties in the like amount.

B] The applicants shall remain present before the investigating officer from 12.12.2024 to 14.12.2024 at 10:30 a.m. to 01:00 p.m. and, thereafter, as and when required by the investigating officer.

C] The applicants shall co-operate with the investigation, including producing all documents in their possession, as may be demanded by the investigating officer.

D] The applicants shall not influence the informant, witnesses or any person concerned with the case and they shall not tamper with the evidence.

7] Needless to say, violation of any of the aforesaid conditions may result in this order being cancelled.

8] List on 02.01.2025.

[ARUN R. PEDNEKER, J.]

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