

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION**

ANTICIPATORY BAIL APPLICATION NO. 672 OF 2024

Ketan Rajendra Bhandari & Ors.

..Applicants

Versus

The State of Maharashtra

..Respondent

Mr. Pratik Kalantri for Applicants.

Ms. Mahalakshmi Ganapathy, APP for State/Respondent.

CORAM :- SARANG V. KOTWAL, J.

DATE :- 12 MARCH 2024

P.C. :-

1. The Applicants are seeking anticipatory bail in connection with C.R.No. 29 of 2024 registered at Wadivarhe Police Station, Nashik Rural, on 23.01.2024, under Sections 302, 204, 120B r/w. 34 of the Indian Penal Code.

2. Heard Mr. Pratik Kalantri, learned counsel for the applicants and Ms. Mahalakshmi Ganapathy, learned APP for the State.

3. The F.I.R. is lodged pursuant to the order passed U/s.156(3) of the Cr.p.c. by the concerned Magistrate. The first

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informant is one Ravindra Choudhari. He is the unfortunate father of his deceased son Tejas. He has stated that, on 27.10.2022, the applicants wanted to celebrate the applicant No.2 Rutik Jain's birthday. They decided to go to a picnic spot at Mango Villa, Ghoti Shivar, Taluka Igatpuri, Dist. Nashik. The informant's son Tejas was their friend. The applicants and one Sachin Patil were to go to Igatpuri to celebrate Rutik's birthday. The informant's son Tejas told the informant that they had planned to go to Mango Villa, Ghoti Shivar, Taluka Igatpuri, District Nashik. The informant was reluctant to send Tejas, but the applicant No.2 Rutik Jain told the informant that they would not consume liquor or other food which was not acceptable in the informant's religion. On this representation, the informant and his family agreed to send Tejas with them. They went on 27.10.2022.

4. On the next day i.e. on 28.10.2022, at about 7:00a.m. the applicant No.1 Ketan called the informant's younger brother Dr. Sunil Chaudhary and told him that Tejas had met with an accident. He was admitted to the I.C.U. of a dispensary at Ghoti. Dr. Sunil insisted that Ketan should arrange for the doctor present

there to have conversation with him. However, Ketan did not arrange for such conversation. Dr. Sunil insisted. Therefore, Ketan handed over the phone to one Dr. Vishwakarma who told Dr. Sunil that Tejas had died and he was brought dead in the dispensary. Dr. Sunil told the informant about this news and asked him to go to Ghoti at the earliest. The informant along with his family members rushed to Ghoti. They reached there around 11.30. His other relatives from Nashik had already reached there. Tejas had already died. They performed his last rites.

5. On 29.10.2022, Dr. Sunil made enquiries with the applicants, but they gave evasive answers. The applicant No.1 told him that, they had called Dr. Parag Patil at Shirpur. It was a video call and Dr. Parag had prescribed some tablets for Tejas. Dr. Sunil checked Ketan's phone. He saw that Ketan's phone had text messages sent to one Rushabh Chordiya. He was asked to bring 40 tablets from Nashik. Ketan did not explain as to why those tablets were ordered. Dr. Sunil called Dr. Parag Patil. At that time, Dr. Parag Patil told him that, Tejas had died in Mango Villa itself. At 5.30a.m., the applicant No.1 Ketan had called him through a video

call and had showed all this. This fact was concealed by the applicant No.1 Ketan from the informant and others. One Sohan Choudhari who was in the business of repairing mobile phone, told the informant that the applicant No.3 Gaurav Jagtap had brought Tejas's phone to unlock it, but he had not unlocked that phone. After two days, the applicant No.3 handed over Tejas's phone to the informant. It is the informant's case that, in 2022 there was a quarrel between Tejas and the applicant No.1 during a festival. According to the first informant, that was the motive because of which Tejas was made to consume something mixed with alcohol and they had committed his murder. On these allegations, he had lodged the complaint, pursuant to which the F.I.R. was lodged.

6. Learned counsel for the applicants submitted that, Tejas had died natural death. The applicants are all young boys. They were friends of Tejas. They had gone to Igatpuri to celebrate the applicant No.2's birthday. The deceased had consumed alcohol in large quantity, which had caused his death. For that purpose the applicants cannot be held responsible. Their custodial interrogation is not necessary. There is a delay of 14 months in

lodging the complaint. There was no injury on the dead body. The deceased was not assaulted.

7. Learned APP submitted that the death of the deceased was enquired into through an A.D.R.. At that time, the relatives of the informant had expressed suspicion, but the police waited to get the medical opinion. The viscera was preserved. She submitted that the P. M. notes show that viscera was preserved for chemical analysis and after receiving the forensic report, the cause of death was mentioned. She submitted that the investigation has revealed that the applicants and Tejas had indulged in smoking *hukka*, therefore, it is necessary to find out what substance was smoked or what substance Tejas was made to smoke. She further submitted that the conduct of the applicants was suspicious. The reasons for raising suspicion are all mentioned in the F.I.R. itself. The investigation is going on. Only the applicants can explain under what circumstances Tejas died. At this stage, there is sufficient material to strongly indicate that the applicants are responsible for his death.

8. I have considered these submissions. The cause of death mentioned in the P.M. notes are “combined effect of Hypertrophic cardiomyopathy coupled with cerebral pulmonary edema in case of consumption of ethyl alcohol”. The viscera showed presence of 75 milligram and 81 milligram of ethyl alcohol per 100 grams respectively, in the stomach and in the liver, spleen, kidneys and lungs. There was 92 milligram of ethyl alcohol per 100 milliliters in the blood of the deceased. Therefore, it is quite clear that he had consumed alcohol in large quantity. The important consideration is that, during the A.D.R. enquiry, the applicants had stated that, at about 4.00a.m. at 28.10.2022, Tejas had vomitted. At that time, he was given Pan-D tablet and digene syrup. At 5.30a.m. again he felt pain in his chest and found difficulty in breathing. After that he was taken to Jay Hari hospital at Ghoti, but at that time, he was already dead and the Doctor had declared him dead.

9. Thus, it is not only due to consumption of alcohol, but some tablets and syrup was also given to him by the applicants. There are allegations in the F.I.R. that, Dr. Sunil had seen text

messages in the applicant No.1's mobile phone ordering some tablets. This requires investigation.

10. The conduct of all these applicants is also important. As per their own statements recorded during the A.D.R. enquiry, the deceased Tejas was suffering from uneasiness right from 4.00a.m. At 5.30a.m. he was having pain in his chest and he was finding it difficult to breathe. He was taken to a dispensary, but he was declared dead. The applicants did not immediately inform any relatives of Tejas. It is only at about 7.00a.m. the informant's brother was told by the applicant No.1 about this fact. Therefore, this conduct between 4.00a.m. to 7.00a.m. requires investigation. Admittedly, the deceased was in the company of all the applicants during the entire night; when they had smoked and drank. There is another circumstance of the applicant No.3 trying to unlock the phone of the deceased. His phone was returned after two days to the informant. All these facts are quite suspicious. They require thorough investigation which is not possible without custodial interrogation of the applicants. The police had not taken the informant's allegations seriously and, therefore, the informant had

to approach the Magistrate's Court and had obtained the order U/s.156(3) of the Cr.p.c. There is no substance in the submission of the learned counsel for the applicant that there is delay in lodging the F.I.R. because on 28.10.2022 itself the relatives of the deceased had expressed suspicion regarding death of the deceased Tejas.

11. Considering the seriousness of the allegations and the gravity of the offence coupled with the material available as of today, the investigation cannot progress further without custodial interrogation of the applicants. There are suspicious circumstances against the applicants. In this view of the matter, no relief U/s.438 of the Cr.p.c. can be granted to the applicants.

12. The Application is rejected.

(SARANG V. KOTWAL, J.)