

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

ANTICIPATORY BAIL APPLICATION NO. 1767 OF 2024

Rajesh Raman Kartha

Aged: 54 Years, Occupation:

Service, R/o. Flat No.301,

Rustomjee Meridian, A Wing,

Sub Plot A, Village Charkop,

Opp Jalaram Temple, Kandivali

(W), Mumbai - 400067.

.. Applicant

Vs.

The State of Maharashtra

at the instance of Dindoshi Police

Station, Through the office of the

Public Prosecutor, PWD Building,

Hon'ble Bombay High Court,

Fort, Mumbai-400 001.

.. Respondent.

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Mr Ravish Mishra, for the Applicant.

Mr MG Patil, APP, for Respondent State.

ACP Dattatray Dhole, Dindoshi Division, present.

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Coram : R.N. Laddha, J.

Date : 16 July 2024

P.C. :

By the present application, the applicant is seeking pre-arrest bail in connection with CR No.394 of 2024, registered at Dindoshi Police Station, Mumbai, for offences punishable under Sections 304, 304-A, 336, 338 of the Indian Penal Code, under Sections 7 and 9 of Safai

Karmachari Seva Yojna Pratiband and Punarvasan Adhiniyam, and under Section 3(1)(j) of the Scheduled Caste and Scheduled Tribe (Prevention of Atrocities) Act, 1989.

2. It is the case of the prosecution that the applicant, employed as a Chief Engineer at Ferani Hotels Pvt. Ltd, was associated with the Raheja Heights and Raheja Residency project. According to the prosecution, two individuals lost their lives in the sewer chamber of the building compound on the day of the incident. The complainant received information that his younger brother, had entered the chamber to rescue unknown person but also lost consciousness. Upon reaching the scene, the complainant and his brother, Javed, found that the sewer chamber was approximately 15 feet deep, where both, the unknown person and their brother were lying. The complainant attempted to save his brother's life but by entering the chamber, but felt a shortage of oxygen, prompting him to exit. Subsequently, Javed entered the chamber to rescue their brother, Akif but also lost consciousness. They were taken to the nearest hospital where Javed and other person, Raghu Solanki, were declared dead while Akif was admitted to ICU.

3. Mr Ravish Mishra, the learned Counsel for the applicant submits that the applicant's name is not included in the FIR. The applicant received an intimation letter in May 2024 from the Assistant

Commissioner of Police, directing him to appear for interrogation. As a Chief Engineer, the applicant's scope of work was clearly defined in the letter dated 22 June 2020. Initially, the offence was not registered u/s 304 of the IPC or the provisions of the Atrocities Act. The applicant has attended the police station on three occasions and cooperated with the investigation. The applicant did not appoint persons to clear the sewer chamber, nor did they give any directions to Manohar Nadar, Plumbing Supervisor, regarding the appointment of those who tragically lost their lives in the incident. The learned Counsel further contends that the provisions of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989, do not apply to the applicant. Manohar Nadar, appointed by Ferani Hotels Pvt Ltd, reported directly to higher authorities and was not supervised by the applicant. Moreover, the applicant has no criminal antecedents.

4. Mr MG Patil, the learned APP, on instructions from the investigating officer who is present before the Court, submits that the investigation is nearly completed, and that the applicant's custody is not necessary. The learned APP acknowledges that the applicant has cooperated with the investigation by attending on three occasions, and nothing needs to be recovered from him. In light of the above, this Court is inclined to allow the present application. Hence, the following order:

ORDER

- (i) In the event of arrest, the applicant shall be released on bail in CR No.394 of 2024, registered at Dindoshi Police Station, Mumbai, on executing a PR Bond of Rs.25,000/- and furnish one or more sureties in the like amount.
- (ii) The applicant shall cooperate with the investigation and report to the concerned police station, as and when directed.
- (iii) The applicant, himself or through any other person, shall not tamper with the evidence or influence any witnesses.

5. The application stands disposed of accordingly.

[R.N. Laddha, J.]