

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
ANTICIPATORY BAIL APPLICATION NO. 2773 OF 2024**

Aniruddha @ Nikhil Rambhau Nimbalkar	...	Applicant
vs.		
The State of Maharashtra	...	Respondent

Mr. Satyam Harshad Nimbalkar, i/b. Mr. Yash Vishal Saxena for applicant.

Mr. Mayur S. Sonavane, APP for respondent-State.

Mr. Ranjit H. Patil for first informant.

Mr. Jeevan Shantaram Mohite, API, Indapur Police Station, District Pune Rural.

**CORAM : MANISH PITALE, J.
DATE : 14th OCTOBER, 2024**

P.C. :

. Heard learned counsel for the applicant, the learned APP for the respondent-State as well as the learned counsel having instructions to appear on behalf of the first informant.

2. The applicant is apprehending arrest in connection with FIR No.0662 of 2024 dated 17.08.2024, registered at Indapur Police Station, District Pune Rural, for offences under Section 304 read with Section 34 of the Indian Penal Code, 1860 (IPC) and Section 33 of the Maharashtra Medical Practitioners Act, 1961.

3. The informant in the present case gave statement on 17.08.2024 to the police with regard to the death of his wife on 26.07.2023 i.e. more than an year ago. The statement alleges that the victim alongwith other members of

the family and village, accompanied the applicant on a religious tour, where the applicant was to expound on *Bhagwat Puran* at various places. The applicant charged an amount of ₹ 8,000 for the said purpose. It is alleged that during the aforesaid tour, the victim alongwith others suffered from ill-health as they had loose motions and other inconveniences. It is alleged that the applicant, as the main speaker and the organizer of the tour, did not take appropriate steps in the matter and in connivance with the co-accused person, who was not even a doctor, arranged for medicines and saline, which was administered to the victim. Subsequently, she had to be admitted in a hospital at Gwalior, where she passed away on 26.07.2023.

4. The learned counsel for the applicant submitted that the FIR is delayed. The allegations in the statement of the first informant do not make out the ingredients of the offence under Section 304 of the IPC, which pertains to punishment for culpable homicide. It is submitted that even if the statement of the informant, recorded during the course of investigation, is to be taken into consideration, it can neither be contended that the applicant had the intention, nor that he had the knowledge that by taking the the victim on the tour alongwith others, he would be causing her death.

5. Attention of this Court was also invited to an advisory issued while taking pilgrims like the victim on religious tour. One of the directions included the stipulation that the participants would be responsible for their physical and financial well-being. It was submitted that the applicant is always ready to co-operate with the investigation and therefore, this Court may consider allowing the present application.

6. On the other hand, the learned APP for the respondent-State as well as the learned counsel having instructions to appear on behalf of the first informant, vehemently opposed the present application. Much reliance was placed on the statements of the witnesses i.e. the fellow pilgrims, as regards the acts of omission and commission of the applicant, during the religious tour, leading to ill-health of some pilgrims and also, the death of the victim i.e. the wife of informant. It was submitted that the applicant had charged substantial amount from the victim and yet, he had not taken necessary steps for her well-being.

7. This Court had perused the material on record. The registration of FIR on 17.08.2024, when the victim i.e. the wife of the informant, expired on 26.07.2023, *prima facie* appears to be delayed. In the statement leading to registration of FIR or even otherwise, there does not appear to be any cogent explanation for delay of 1 year and 1 month for causing the FIR to be registered.

8. Apart from this, the allegations made by the informant indicate that the applicant was the main speaker and organizer of the religious tour, wherein the pilgrims including the victim, were taken to various places, where the applicant gave lectures on *Bhagwat Puran*. Even as per the statement of the informant, some other pilgrims also fell ill and had loose motions. Thereafter, the health of the victim deteriorated and she had to be admitted in a hospital in Gwalior, where she eventually expired on 26.07.2023. The post-mortem report does not indicate any suspicious angle to the death of the victim.

9. There is substance in the contention raised on behalf of the applicant that the set of instructions given to the pilgrims while taking them on tour, included the stipulation that they would be responsible for their physical and financial well-being. In such a situation, to impute knowledge or intention on the part of the applicant that by taking the pilgrims, particularly the victim on the religious tour, he would be causing her death, is stretching logic too far. *Prima facie*, it does not appear to be acceptable that receiving amount of ₹ 8,000 and organizing religious tour itself was an act on the part of the applicant, which would lead to registration of FIR under Section 304 of the IPC. At worst, the allegation of negligence could perhaps be made against the applicant, but that in itself would not justify invoking Section 304 of the IPC, which is a serious offence. The applicant has made out a strong *prima facie* case in his favour. In any case, he intends to co-operate with the investigation.

10. In view of the above, the application is allowed in the following terms:
- (i) In the event the applicants are arrested in connection with FIR No.0662 of 2024 dated 17.08.2024, registered at Indapur Police Station, District Pune Rural, he shall be released on bail on furnishing PR Bond of ₹ 25,000/- with one or two sureties in the like amount to the satisfaction of the trial Court.
 - (ii) The applicant shall remain present before the Investigating Officer on 17.10.2024 between 10:00 a.m. and 12:00 noon and thereafter, as and when required by the Investigating Officer.
 - (iii) The applicant shall not tamper with the evidence of the prosecution in any manner. He shall not influence the informant, witnesses and other persons concerned with the case;

(iv) The applicant shall co-operate with the investigation and also in the proceedings before the trial court.

11. In the event, the applicant violate any of the conditions specified in this order, it shall be liable to be cancelled.

12. It is also clarified that the observations made in this order are limited to the disposal of the present application and the trial court shall proceed further in the matter without being influenced by the observations made hereinabove.

13. The application stands disposed of.

(MANISH PITALE, J)