

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

Anticipatory Bail Application No.1655 of 2025

1. Raju Manoj Shirke

Age : 33 yrs, Occ. Service

R/at Room No.403, Ayusha Enclave,
Plot No.32, Sector 5 A,
Karanjade, Panvel, Dist Raigarh

2. Vishwas Kusha Rane

Age: 54 yrs, Occ: service

R/at Sanket B/5, Anand Nagar,
Vakola Police Station Lane,
Santacruz (E) Mumbai.

... Applicants

Versus

The State of Maharashtra
(MIDC Police Station)

... Respondent

Mr RV Gupta, along with Mr Rohit Vaishya, for the applicants.

Mr YY Dabke, APP, for the respondent/ State.

PSI Pranay Laxman Kate, MIDC Police Station, Mumbai.

Coram: R.N.Laddha, J.

Date: 19 June 2025

P.C. :

By this application, the applicants seek pre-arrest bail in
connection with CR No.124 of 2025, registered with MIDC

Police Station, Mumbai, for offences punishable under Sections 125, 125(a), 125(b), 324(3), read with 3(5) of the Bharatiya Nyaya Sanhita, 2023.

2. It is the case of the prosecution that on 9 March 2025, the driver of the JCB machine, acting under the supervision of his contractor and in connivance with other co-accused persons, engaged in activities marked by gross negligence and recklessness. Their careless conduct led to the outbreak of a fire at the site. It is alleged that despite the fire having occurred, none of the accused made any attempt to notify any relevant authorities. Instead, they abandoned the scene and absconded. As a direct consequence of their irresponsible and hazardous actions, several persons sustained severe burn injuries, one of them died, and damage was caused to public property. During the investigation, it came to light that the applicants, who are employees of the MCGM were present at the location during the time of the incident. The co-accused were carrying out the said acts with the knowledge and consent of the applicants.

3. Mr RV Gupta, the learned Counsel appearing on behalf of the applicants, submits that pursuant to the notice issued under Section 35(3) of the Bharatiya Nagarik Suraksha Sanhita, 2023,

the applicants have duly appeared before the investigating authority and have extended cooperation in the investigation. He further submits that the principal accused persons have already been arrested. The applicants are employees of the MCGM and have no direct involvement in connection with the alleged offence committed by the co-accused. Their role, if any, is purely official in nature and they have acted within the scope of their duties.

4. On the other hand, Mr Yogesh Dabke, the learned Additional Public Prosecutor representing the respondent/ State, submits that the offence in question is of a grave and serious nature. He submits that the investigation involving the present applicants is still at a preliminary stage. As a result of the actions of the accused, several individuals sustained serious burn injuries, one of them died, and significant damage was caused to public property. The learned APP further points out that, at the time of the incident, the applicants were not officially on duty, nor had they been assigned any responsibility to supervise the digging activity being undertaken at the site. Despite this, they were found present at the location of the incident, and the digging work had been carried out with their knowledge and express consent.

5. It is a settled position in law that the power to grant anticipatory bail is extraordinary. While it has been acknowledged in many instances that regular bail is considered a general rule, the same analogy cannot be applied to anticipatory bail. The decision to grant anticipatory bail must be exercised with careful and prudent discretion by the Court, considering each case's specific circumstances. A straitjacket formula cannot be applied. While exercising this power, the Court must exercise caution, as granting protection in serious cases could potentially lead to a miscarriage of justice or hinder the investigation by allowing tampering or destruction of evidence. A profitable reference in this regard can be made to the decision of the Hon'ble Supreme Court in *Srikant Upadhyay & Ors. v. State of Bihar & Anr.*¹

6. Upon perusing the records, it appears that at time of the alleged incident, the applicants were present at the location in their purported official capacity. Their presence at the site created an impression among the general public that the excavation/ digging work being undertaken was duly authorised and conducted under their supervision in accordance with the prescribed procedures and regulatory norms. However, it

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appears that the said excavation activity was not executed in compliance with the established technical and safety standards. As a direct consequence of such negligent and reckless action, a gas pipeline was damaged, leading to a fire outbreak. The incident tragically resulted in the multiple civilian casualties, including burn injuries sustained by several innocent individuals, and the unfortunate death of one person. Furthermore, there was considerable damage to public property. It further reveals from the record that following the occurrence of the incident, all the accused persons fled from the scene without notifying or alerting the concerned authorities, thereby aggravating the consequences and hindering the emergency response. The nature of the offence is grave and sensitive, involving serious implications for public safety and accountability. The investigation is in progress. In view of the complexity of the case and in the interest of ensuring a comprehensive and impartial investigation, the custodial interrogation of the applicants is deemed necessary. As a result, the application stands rejected.

[R. N. Laddha, J.]