

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

ANTICIPATORY BAIL APPLICATION NO. 162 OF 2022

Sameer Jai Hiremath ... Applicant
Versus
The State of Maharashtra & Ors. ... Respondents

Mr. Amit Desai, Senior Advocate a/w Mr. Akshay Patil, Mr. Kalpesh Joshi and Mr. Mitesh Jain i/b Kalpesh Joshi Associates.
Mr. P. H. Gaikwad, APP for the Respondent Nos. 1 and 2.

**CORAM: R. D. DHANUKA AND
S. M. MODAK, JJ.
DATE : 21st JANUARY, 2022
(Through Video Conference)**

P.C. :-

1. Papers and proceedings are allowed to be produced at 2:30 p.m. in view of urgency in the matter.

2. Heard Mr. Desai, learned Senior Counsel for the petitioner and Mr. Gaikwad, learned APP for the respondent nos. 1 and 2. There is an offence registered with Sachin GIDC Police Station, Surat City on 6th January, 2022. It is for the offences punishable under Sections 304, 336, 337, 338, 284, 277, 278, 120B of Indian Penal Code, 1860 and Section 15 of Environment Protection Act. The allegations are that one tanker bearing registration no. GJ 06 ZZ 6221 has illegally drained toxic chemical from the tanker in natural drain and chemical came in contact with surface and sub-surface water source and it had affected human life. There is a further allegation that the labours were exposed

to toxic release from the tanker. As a result, six persons have died and other 23 persons were under treatment. After initial investigation, the local police have registered an offence as mentioned above.

3. The petitioner apprehend arrest for two reasons, first is, there is a media report published in local newspaper Gujarat Samachar, copy is annexed at page 58. It is mentioned that the local police are trying to arrest the petitioner, however, his whereabouts are not known. Second reason is, some of the employees of the petitioner's company were also arrested and their Regular Bail Applications are pending. Infact, this transit bail application was assigned to learned Single Judge and there is an issue as to whether a transit anticipatory bail can be granted by this Court in an offence registered out of State of Maharashtra. It is pending for reference before the Division Bench. Learned Single Judge as per the order dated 20th January, 2022 was pleased to refer this bail application to the Division Bench. As the regular Division Bench is not available, this matter is placed before us.

4. Learned Senior Counsel submitted that they need two weeks' time to approach regular Court. He has also assured that up till now, the staff of the petitioner's company have cooperated with the police. He assures that in future, necessary cooperation would be given to the police.

5. Learned APP, read over the news article. According to him, since there is unnatural death of six persons, no transit bail shall be granted. He also submitted that this Court has no jurisdiction to grant

transit bail as the offence registered is out of the State of Maharashtra.

5. Learned Senior Counsel fairly admitted that there is mistake in paragraph no.4 of the application. Mistakenly, it is written that the applicant was arrested on 11th January, 2022 and police custody was granted. He prayed orally to grant leave to amend the necessary averments in paragraph 4. He categorically submitted that the applicant is not yet arrested. Leave to carry out necessary amendment in paragraph 4 is granted. Amendment to be carried out forthwith.

6. Though, the issue whether this Court can grant anticipatory bail is pending reference before Division Bench, in view of urgency and for the reason that the law will take its own course for deciding the reference, the liberty has to be protected. Considering the fact that the offence registered on 6th January, 2022 and considering the fact that six persons have died by unnatural death, we are not inclined to grant two weeks' transit bail for approaching the regular appropriate Court. It is true that whether those six persons have died due to inhaling of toxic gas created from the chemical dumped from the tanker belonging to the petitioner or whether it is due to the chemical dropped by a tanker belonging to other persons, it is a matter of investigation. We are inclined to grant time till 1st February, 2022 to approach the regular appropriate Court. In view of that the following order is passed:-

- (a) The petitioner is granted *ad-interim* transit anticipatory bail upto 1st February, 2022 in connection with the offence arising out of FIR No. 11210002220107/2022 dated 6th January, 2022 registered with Sachin GIDC Police Station,

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Surat City, as described in prayer clause (b) of the petitioner, on furnishing personal bond and surety bond of Rs.50,000/-.

- (b) The petitioner to approach the regular appropriate Court on or before 1st February, 2022 and to take steps accordingly.
- (c) The petitioner is directed not to leave India without leave of appropriate Court.

[S. M. MODAK, J.]

[R. D. DHANUKA, J.]

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