

(2013) 10 BOM CK 0032

In the Bombay High Court

Case No : Anticipatory Bail Application No. 941 of 2013

Mr. Sundeep Bafna

APPELLANT

Vs

The State of Maharashtra and Rizwan Merchant

RESPONDENT

Date of Decision : 11-10-2013

Acts Referred:

Citation : (2014) 1 BomCR(Cri) 558

Hon'ble Judges : A.H. Joshi, J

Bench : Single Bench

Advocate : Ram Jethmalani, Mr. Shrikant Bhatt, Mr. Amit Jajoo, Mr. Subhash Jha, Mr. Sameer Vaidya, Mr. Atul Singh, Mr. Priyank Ladoia and Ms. Sushmita Gandhi instructed by PKA Advocates, for the Appellant; D.J. Khambata, Advocate General, Mr. Ajay S. Gadkari, Ms. A.A. Mane, APP for Respondent No. 1.-State and Party in Person, for the Respondent

Final Decision : Dismissed

Judgement

A.H. Joshi, J.—Heard both sides. Perused the record annexed to the application and those tendered in Court by parties on both sides. Learned Senior Advocate Mr. Jethmalani has advanced submissions on facts which are as follows:-

(a) The underground area of the "A" wing of the building which collapsed, were taken on leave and license basis by the applicant from accused no. 4.

(b) In the FIR, so also in several letters written by the Intervener to various authorities, he has admitted that, well before the Applicant took the underground and decided to carry out any repair work in the licensed premises, the building was in a critical and very bad condition to such an extent that the building was shivering and quivering (letter dated 10.11.2008) and that it needed extensive repairs.

(c) The applicant took advice of experienced engineers & architect, and had proposed to get some repair work done through a qualified contractor.

(d) The experts could not commence any work for making the building safer which they had proposed because the Intervener objected to the issuance of permission required for carrying out those repairs.

(e) The intervener claims that he took advise of Mr. Chetan Raikar, who suggested that building needed major repairs.

(f) The licensed premises were not habitable. The premises were never occupied or used by the Applicant, even till the agreed date of expiry of license had crossed.

(g) Letter and notices were issued by the Applicant to the owner on 13.6.2009, 23.11.2009 and 30.12.2009 and thereby informed cancellation of the Leave and License agreement, and demanded refund of the deposit from Mr. Iqbal Ibrahim. He demanded refund on the ground that Mr. Iqbal Ibrahim had failed to secure the permission from the BMC for carrying out the renovation/repair work in the licensed premises.

(h) Two reports were furnished by the committee appointed by Municipal Corporation, which are dated 2nd July 2013 and dated 12th August 2013. The findings given in these reports do completely exonerate the applicant. These reports are official acts and opinions rendered by them should be relied.

(i) Police have not issued any notice to the applicant for attendance. It is not disputed that recently, a notice was pasted on the door of applicant's residence during pendency of this application.

(j) The applicant is not in Mumbai and is at Delhi and is engaged in seeking the legal advice and is preparing to meet any eventualities. It cannot be said that the applicant has evaded the arrest.

2. Legal submissions as advanced by learned Senior Advocate Mr. Ram Jethmalani are as follows:-

(a) The plea of negligence for attracting criminal liability is to be the negligence of "gross" nature.

(b) The applicant's business is of selling etc. of automobiles and he is entitled to rely in matters of experts in the field of structural engineers and work restoration of old buildings.

(c) One who has acted with due diligence in taking measures, cannot be branded as negligent that too for fastening criminal liability.

(d) Even if the contents of FIR are considered to be true, even without further and formal proof of facts stated therein, no offence whatsoever and under any section of the penal code, or any other law, is described.

(e) The only allegation made against the present Applicant is that he has allegedly carried out some repairs in the basement of "A" wing which is on left side, which even if considered to be a fact of the matter, it is not the "causa

causans".

(f) Any act done by applicant cannot be the real cause of the incident, by applying the doctrine of causa causans. Therefore, the applicant is not remotely liable.

(g) Reliance whatsoever cannot be placed on the Intervener's hearsay evidence about the advice he has received from expert engaged by him as to the opinion as regards repairs and/or reasons of collapse of the building.

(h) If at all an offence is described, it could be u/s 304-A of IPC, which is a bailable offence.

(i) The letter "A" has been consciously omitted (from 304-A) by the first informant while writing provisions of IPC in FIR, though he had mentioned it in letter of 24.8.2009 and letter of 26.5.2010 addressed to police where section 304-A has been mentioned.

(j) There is no justification for the intervener to call the reports of the committee appointed by corporation as corrupt and false with a bald allegation.

(k) Any criticism on the public document i.e. the reports of committee offered by intervener casually and irresponsibly should not be given any weight or prominence at this stage.

(l) An arrest cannot be made on the intervener's irresponsible opinion of this type.

(m) A person who is openly seeking remedies before competent courts cannot be said to be absconding or avoiding arrest.

(n) Though the police wants to obtain some documents from the Applicant particularly correspondence with "Con-tech" consultants, same are available with public authorities and the consultant. The arrest of applicant and custody, for that purpose cannot sustain as a good ground in law.

(o) Further, it has been suggested that custody is required for confrontation with Iqbal Ibrahim, who is on bail. This excuse is wholly unjustifiable since any confrontation can be done any time for which arrest is not necessary.

(p) Right of the applicant as to his liberty, and right to anticipatory bail is now embedded in Article 21 of the Constitution of India in view of the law laid down by the Hon"ble Supreme Court in various judgments.

(q) In view of section 46(1) of the Cr.P.C. now it is duty of the police to make it sure that arrest is not affected just because it may be legal.

(r) Arrest can be affected only in case of serious offence where offence could be punishable with death or life imprisonment or because the accused has tampered with evidence etc.

(s) In cases of simple nature particularly of present nature, right of interrogation by police can never be a ground for arrest.

(t) The accused person has shown that he has really exhibited due diligence before work was commenced. On the other hand damage already caused to the property due to deterioration and failure in maintenance is adequate enough to suggest that the accused had no knowledge of probable consequences of any of his alleged acts.

3. Learned Advocate Mr. Jethmalani has placed reliance on following judgments:-

Green v. Fibreglass Ltd. 2 Queen" Bench Division 1958 (245)--on the point of need of proof of gross negligence.

Kurban Hussein Mohammed Ali Rangwalla v. State of Maharashtra AIR 1965 SC 1616--on the point of causa causans"

Joginder Kumar Vs. State of U.P. and others, -on the point that freedom from arbitrary arrest is a part of Art. 21 of the Constitution of India.

4. Submissions advanced by Advocate General and the party in person-the first informant are as under:-

(a) It is clear case of section 304 and not attracting section 304-A.

(b) The allegation as regards section 304-A is towards acts of owner/developer towards his negligence which are antecedent to the acts of the accused.

(c) It is a fact that in the complaint lodged by the first informant with Corporation in 2008, 2009 and 2010 etc., he has been echoing that it would be case u/s 304A of IPC. Now considering the facts which have actually transpired, the case is apparently of commission of offence u/s 304 IPC.

(d) Applicant is making a conscious and deliberate effort to create a confusion with an attempt to misdirect on factual aspects.

(e) The issue of hoarding is sought to be mixed by the advocate for the applicant, unnecessarily and by giving undue emphasis.

(f) On the facts, the work of chipping columns, beams and walls was commenced and was done by the accused applicant through his contractor, well before expert opinion was secured. The applicant had failed to take into consideration, the vital links of the damaged columns with the load of building including of overhead reservoir of 20,000 litres, before the work was begun.

(g) The opinion was taken and application for permission for repair was submitted by the applicant and owner. However it is evident that said opinion was actually received four days after the intervener submitted the written complaint to police and to the corporation.

(h) The intervener had detected the work on 9th November, 2008, when the

damage was already done, and further damage was stopped as the work was suspended and the props put up by the appellant had to remain, being an essential protective device.

(i) The first informant has recorded in his written grievance made to authorities on 10th November, 2008 that the work of chipping of the cement concrete mortar of columns, beams, walls and slab was already done, by use of chisels and hammers, the concrete mortar of columns, beams, slab and walls was removed and the steel reinforcement matter was exposed. By the said act of damage the safety of the building, was already endangered due to the acts done by the accused.

(j) It is a clear case of existence of knowledge of consequences own acts, to accused particularly when he had commenced work before he had actually received the opinion of experts.

(k) Plea of seeking of experts opinion and engaging an expert and professional contractor is a sheer camouflage.

(l) It is evident from the letters submitted to the authorities for the permission of construction by the applicant and the owner that those are shown to be dated 7.11.2008, however, it is an admitted fact that those were actually delivered in the office of corporation on 14.11.2008. The act of accused of showing the letters to be dated 7.11.2008 is in fact an attempt to ante date the correspondence, to mislead all concerned including the courts.

(m) It is not shown that survey and/or audit of the structure was carried out by Con-Tech the expert who had furnished alleged plan and estimate allegedly dated 3.11.2008. Any such document is not shown by the applicant to any one. On the other hand, the plan regarding work and estimate furnished by Con-Tech is on applicant's own showing presumed to be ante-dated to 3-11-2008. This ante dating is evident since in the body of the very document a reference to discussion held on 10th and 11th of November, 2008 is given.

(n) The argument of causa causans urged by the applicant is totally misplaced. At this stage it has transpired from the evidence so far gathered that there is no other cause of collapse of building except the damage to the columns and beams.

5. Additional submissions of the intervener are as follows:-

(a) The damage to columns, beams and slab and walls has surfaced was seen by the intervener, and its gravity had become conclusive when the structural audit was conducted by the engineer, namely, Chetan Raikar on the request of the intervener. The fact finding that six important columns has suffered severe damage due to chopping done has gone unchallenged.

(b) The report of committee appointed by the corporation comprised of officers of B.M.C. who had helped screening of dangerous acts of present applicant, and said report is not impartial. Therefore, though said report exonerates the

applicant. However, the fact that damage to columns, beams and walls is not disputed even by said committee as a fact. Moreover, the fact of damage to vital columns and beams etc. is undeniable.

(c) Therefore the damage to vital columns, beams and walls is the cause of collapse and it is borne on record, and cause of damage is the act of accused applicant.

(d) The expert committee's opinion is under serious objection and under cloud in view of objections of the intervener which are on record.

(e) In this background the structural audit, if any, done by the expert employed by the applicant has not come forward and this be regarded as a fact adverse to the applicant.

(f) Collapse of building is only because of damage and tampering done by the accused to R.C.C. structural columns and beams.

(g) The version of the first informant that building was shivering and quivering is an admittedly due to wind blow on the hoarding and not due to damaged caused by applicant. Applicant is distorting the facts.

(h) The Hoarding caused shivering of "B" wing and not of "A" building.

(i) Applicant has tampered with and influenced the investigation. The final report of committee appointed by B.M.C. was received during pendency of anticipatory bail application before Sessions Court, and it was influenced by the applicant and other accused. "B" wing was weaker, yet it did not collapse though it had a monolithic connection with "A" wing, because its structure was stable, and it was not damaged by human act like act of accused to the structure of the "A" wing. Rather "A" wing collapsed sincerely due to the acts of accused in causing damage to vital columns was caused by the applicant, as an act which was grossly reckless and negligent.

(j) Therefore, considering all circumstances, release of the applicant on anticipatory bail would prejudice the investigation, and would amount to grant of a license to wrongdoers due to whom one after other building are collapsing.

6. In the background of rival submissions it is necessary to take resume of dates and events emerging from record as cited by the parties. The account of events as has surfaced and is drawn with the assistance of parties is as follows:-

1982-1984:-

Construction of both wings of Aftab Manzil completed was completed.

1st April 2003:-

Letter was addressed by Furniturewala's (Landlord of the Building) to tenants including the Intervener recording and informing that the condition of building is precarious and was deteriorating.

A meeting was held with the tenants including Intervener on the deteriorating condition of the Building and measures of immediate repairs.

22nd December, 2004:-

Applicant became owner of ground floor plus basement in B-Wing through an agreement for sale.

A lease of 999 years of the shed was granted by the Furniturewalas to the Applicant.

4th December, 2007:-

Iqbal Ibrahim purchases the ground and basement property in the A Wing.

11th October, 2008:-

Applicant entered into an agreement of Leave and License of 36 months with Iqbal Ibrahim for underground of "A" wing. License period as per the agreement to expire on 10th October, 2011.

3rd November, 2008:-

Applicant claims that a Preliminary report and quotation of work given by Con-Tech Consultants to the Applicant for work/repair to be undertaken in the licensed premises.

9th November, 2008:-

Applicant claims that he had noticed that the work of chipping of and stripping, removing of mortar of columns, beams, slab etc. by use chisel and hammer was carried out in licensed premises by men employed by the contractor Mr. Manish Patel of Con-Tech Consultants and huge debris were accumulated and wooden props were put up through out the underground area.

10th November, 2008:-

The Intervener addressed a letter to the Municipal authorities complaining unauthorized work in the underground by the accused and owner. Further requiring the authorities to hear him before granting any permission to repair and that the building was further weakened due to damage caused by the accused thereby endangering the life of the residents.

10th November, 2008:-

Quotation was revised on 10th November, 2008.

11th November, 2008:-

Report by Con-Tech Consultants is received by applicants. The remedial measure are advised.

14th November, 2008:-

Application for repair of the licensed premises was made actually by Iqbal Ebrahim and even by applicant. It is not shown that it is accompanied by any plans and designs.

26th May, 2010:-

The Intervener addressed a letter to Mahim Police Station complaining against the Furniturewalas on various issues and clearly stating that due to non-maintenance of the Building it is in a very critical condition and requires immediate repairs. Proposes to invoke section 304A of IPC.

18th January, 2012:-

Report on structural stability and repair work of Building issues by Structural Engineers appointed by the Building residents i.e. United Engineers and Consultants. The report categorically and in great details mentions the speeding deterioration and extremely precarious condition of the building. It specifies underground columns which were severally damaged.

14th and 15th May, 2012:-

Portion of hoarding atop the Building fell down. Complaint dated 15th May, 2012 was addressed by the Intervener to Municipal authorities stating that the Hoarding is posing threat and against unauthorised car parking made against the Applicant.

10th June, 2013:-

A-Wing of Aftab Building collapsed.

Municipal Authorities announced formation of a Technical Committee to ascertain to ascertain the reason for collapse.

15th June, 2013:-

Intervener filed FIR with the Mahim police station against the Applicant and others. Immediately a FIR is registered by Mahim Police Station.

20th June, 2013:-

Applicant tendered a letter to Mahim Police Station giving certain information, sou motu.

2nd July, 2013:-

Municipal Authorities issue interim report. It states that the probable cause of collapse is the third degree deterioration of the Building which required immediate repairs.

This report categorically rules out any structural alterations as alleged by the Intervener.

8th July, 2013:-

Anticipatory Bail Application filed before Sessions Court

12th August, 2013:-

Final report of the Technical Committee was released. The committee has listed down primarily six reasons for extreme deterioration ultimately leading to collapse of Building.

20th August, 2013:-

The Anticipatory Bail Application filed by the Applicant with the Hon''ble Sessions Court is rejected.

7. In the background of rival submissions and background of events as recorded in the foregoing paras, the questions which fall for consideration of this court are:-

(a) What are the offences reported and what are the offences prima facie spell out from the contents of FIR?

(b) Is the accused/applicant entitled to protection of his liberties by grant of anticipatory bail?

Discussion and Reasons

8. (a) The foundation of FIR is the letter/report dated 15th June, 2013 which is given by the intervener to the Senior Inspector of Police of Mahim police station. In this long drawn report inter-alia, he has stated as follows:

Around the 9th November 2008 I had noticed that some labourers were working in the illegal shed that was being held and controlled by Mr. Sundeep Kumar Bafna behind the building in the open areas that was illegally leased out by the accused to Sundeep Kumar Bafna. On entering the said shed and the showroom and basement noticed that some civil work was being carried out by one Mr. Manish Patel for and on behalf of Mr. Sundeep Kumar Bafna, for major renovation and repairs by Con-Tech Consultants. I was shocked to see that the entire showroom on the ground floor and the basement was covered with wooden props and that the beams, columns had wide gaping exposures of steel through them. There was a wide opening on the ground floor of the RCC frame of the building for making an entry and exit point into the illegal shed behind the building. My visit to the basement was even more shocking as the beams and columns in the basement, constituting the foundation of the building on which the entire Northern side of the building is being supported was stripped off showing the internal steel and mortar, Larger portions of the internal walls of the basement which also form a part of the RCC foundation and the building were also being chipped and hammer and chisel. I noticed that under the guise of renovation and refurbishment of the showroom major and material alterations were being carried out in the showroom and the basement which was endangering the entire structure of the building which was already slated for repairs and was awaiting the receipt of the quotation from the contractor. None of the accused were

contactable. Neither Mr. Iqbal Ibrahim nor Mr. Sundeep Bafna were contactable. The contractor Manish Patel of Con-Tech Consultants denied being in possession of any permission from the Municipal Corporation for carrying out such extensive repairs by stripping the columns and beams of the foundation of the building on the Northern side, i.e. the "A" Wing which collapsed on the 10th June 2013 leading to loss of lives and property. I was threatened on the site by the contractor. I therefore lodged a complaint with the Mahim police station which unfortunately was treated and recorded as an N.C. Complaint dated 9/11/2000.

(quoted from Page 461 of reconstituted paperbook)

(b) Going barely by the description, the intervener-first informant has attributed and ascribed to present applicant personally, acts which constitute, Acts which amount to tampering of structural work of "A" wing of the building.

(c) The narration contained in the report also contains an assertion that the act of commencing work of chipping of vital columns, beams, slab and walls would result in collapse of building and even death of residents was a matter of knowledge.

(d) Moreover, intervener had lodged report with the Mahim police station which was registered as non cognizable offence, and at that moment of time the applicant was duly notified that his acts were to follow graver consequences.

(e) Instead of making all possible efforts to undo the damage, the applicant has chosen to continue said substantially damaged status by connivance and failing to undo the damage. The accused has continued to fail to carry out the restoration despite the knowledge that thereby, the damaged structure would prove to be dangerous to the life of residents of said building and all those who enter said building.

(f) It prima facie appears when it is seen from any angle and one thing is vivid that tinkering with vital columns, beams and walls without a structural expert's report actually in hand, well before commencement of the work of chipping off or even a single cubic centimeter of concrete.

(g) Prima facie the act of removing concrete and exposing steel matter of the columns, beams, slab and of walls would constitute an act which is gross in rash and negligence, and would constitute to be adequate description of ingredient of the offence u/s. 304 of IPC.

(h) As regards knowledge as to what are to be the consequences of own act, of the accused this court will have to see at this stage as to whether:

(1) knowledge of consequences is ascribed by necessary description.

(2) Whether prima facie the description ascribing knowledge is by sheer gimmick of words rather than reasonable support and nexus with facts as depicted in FIR and as would surface from circumstances around.

(i) If the revelations after applying the yardstick indicated in foregoing sub-para, court perceives that from FIR and material gathered by investigating officer, so far, that all these things support and strengthens the version contained in FIR, that there exists a strong prima facie case describing commission of offence against the applicant, then a prima facie view can be formed against the applicant.

(j) Now, the gauging device as to whether prima facie, offence is committed is certain. Therefore, this court has to assess as to whether the FIR and the material which has surfaced so far prima facie describes involvement of the applicant in the commission of offence and whether any extenuating circumstances exist whether applicant can claim exemption from arrest.

(k) Present is not a case where the applicant is totally alien or is a stranger to the scene of offence. It has transpired from undisputed documents that:-

- Applicant already owned a shop and other premises in the building.
- The applicant had secured a right by way of license to the underground and had admittedly invested huge amount for that purpose.
- He was also keen on getting certain additions, refurbishing in the underground area and he claims that he had secured prior advice.
- He does not say that he has any enmity with intervener.
- He cannot deny the fact that on 7.10.2008, the first informant lodged a complaint/FIR before Mahim police station and complained that tinkering with and damage was done to the columns, beams, slab and walls of the building and damage to the structure of building was done by the contractor. Mr. Manish Patel of Con-Tech engaged by the applicant.
- Officers of corporation visited the site due to the complaint by intervener and they had reported that no work was going on.
- Owner as well as the applicant had applied to BMC for permission to carry out repairs.
- Applicant could not carry out the work of restoration because according to the applicants the intervener had objected.
- Objection of the intervener was by way of claim of hearing before any application for repairs was considered by the authorities. The intervener had never point blank opposed the grant of permission for repairs.
- Props were put up by the contractor in the underground area of the "A" wing of the building because some work by the contractor of the applicant had begun.
- Nothing in law precluded the applicant from proceeding with the work of repair and restoration by taking recourse to the provision of "deemed" permission, under the B.P.M.C. Act M.R.T.P. Act in the background that the application for

repairs was not expressly rejected.

-- There was no order of restraint or injunction from any court against grant of permission or commencement of vital and inevitable repair and restoration.

9. The intervener and the investigating agencies may urge many things, however, the point to be considered is as to what do the acts and omissions of the applicant demonstrate and tend to prove or suggest, *prima facie*.

10. It can be seen from the date sequence narrated in foregoing paragraph no. 8, that on 9th November, 2008 as per the claim of the intervener the work of chipping of and stripping of mortar form of concrete structure of beams, columns, slab and walls was already done, and before commencing it any permission or expert report as is *prima facie* seen, was not in the hands of the applicant.

11. The said impression is gathered from a document which is coming forward from the custody of the applicant. The estimate and opinion of Con-Tech are seen to be dated 3rd November, 2008, however, contents thereof reveal discussions held on 10th and 11th November, 2008. These contents do demonstrate that expert's final opinion was not in hands of applicant before 9th November, 2008 i.e. the date when the damage to structurally vital columns, beam, slab and walls was already not only commenced but was rather completed.

12. It further *prima facie* appears that:-

(a) The way the applicant claims, he had secured the report of Con-Tech Consultants before hand, however, certainly it was definitely in hands of the applicant sometime on or after 11th November, 2008, yet the applicant had failed to carry out the work of restoration of damage done to the building and on the other hand it is suggested that the supporting props were removed.

(b) Since the work of chipping of and stripping of mortar form of concrete structure was done, the load of upper stories to be sustained by props, thereby making the work of restoration and repairs by jacketing etc. to the columns and beams to be done conveniently. Since the props were removed, vital columns which were tinkered had to sustain the weight and load of entire structure above it, though those were weakened and thereby rendering the occupants of the building to risk that it became a danger to their life.

(c) The applicant was not aware of intervening status of structure and nature of repairs which was required to be carried out. The simple fact that the applicant had failed to carry out the repairs with or permission or in anticipation of permission is the act of omission of the applicant.

(d) Knowing fully well the consequences though the applicant claims that he had issued notice to the owner and demanded refund of his amount, he has not shown that at any point of time he has ceased to have interest in the property and that he was not responsible for carrying out repairs towards damage to the

premises and structural status done by him.

13. It is seen from the initial notice that the intervener has suggested that action of the present applicant would fall within mischief of section 304A of the IPC. However, it is prima facie seen from the evidence that has now surfaced that potential of damage caused to structurally vital parts of the building has proved to be grave, assuming that the applicant is not an expert. He would not know the fact of tampering to the structure to be per-se grave and dangerous. He would, however, certainly know that any tampering would result in death of occupants of the building if done by unskilled person or person without expertise and at times even by experts, leaving any human error. The applicant had done the act of tampering with structurally vital parts of the building, and prima facie by way of a rash and grossly negligent act, knowing fully well about its repercussions and consequences to be fatal to the lives of inmates of the building.

14. As it prima facie appears and, therefore, it may not be permissible for him at this stage to claim that he would not have knowledge of consequences or the applicant could not visualise would be defence available to the applicant when the applicant faces the trial, however, at this stage a plea that he could not know the consequences of his acts cannot be couched as plea to secure anticipatory bail.

15. In so far as the legal submissions advanced by Senior Advocate Mr. Ram Jethmalani are concerned those are dealt with as follows:

(a) The principle of causa causans if to be applied to present case, it has to be obvious and not one which should be explored by deep searches. The case has to be as obvious as the Kurban Husain's (supra) case. Therefore applicability of this principle will be governed by the facts of the case, and not by mechanical application.

(b) As regards the principle of diligence enunciated in Green Vs. Fiberglass Ltd. (supra) is concerned, it would apply if facts support the applicant.

Though it is urged, it is seen that prior availment of advise and engagement of an expert or a specialised agency by the applicant comes under serious cloud of doubt. The letters of opinion and advise are based on meetings which are after the date of commencement of work, and the estimate, is prima facie ante dated as is evident from its contents too.

(c) Whether any particular accused has qualified himself for the relief of anticipatory bail has to be shown by him. Joginder Kumar's case (supra) does not lay down a rigid rule. Recognition of right of anticipatory bail still does not wipe out power of arrest and power of the investigating agency to make application for custody for the purpose of investigation. Powers of Magistrate to grant custody are also not abolished. Therefore, the case has to be obvious to grant anticipatory bail.

16. For the reasons narrated hereinbefore, this court is satisfied that:-

(a) The applicant is seen named and involved by appropriate description of ingredients of various offences alleged against him, for offences including offence u/s 304 of IPC.

(b) Applicant has failed to make out that he is involved falsely or due to enmity or political or other malice.

(c) All contentions and arguments are in the nature of defences which can be set up at proper stage and not now.

(d) Due diligence and want of knowledge of consequences are, on what appears prima facie untrue.

Hence following order:-

(A) Application is rejected.

(B) Observations made in this order are on what appear prima facie, and would not bind any further adjudication of any nature.