

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD**

CRIMINAL APPLICATION NO. 4526 OF 2015

Santosh s/o Ganpat Warange **APPLICANT**

V E R S U S

The State of Maharashtra **RESPONDENT**

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Mr. Mohit R.Deshmukh, Advocate for Applicant.

Mrs. M.A.Deshpande, A.P.P. for Resp. - State.

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CORAM : INDIRA K. JAIN, J.

DATE : 7th DECEMBER, 2015

ORAL ORDER :-

. Here is an application for regular bail in Crime No. I-67/2015 registered at Paithan police station, district Aurangabad for the offences punishable u/ss 304,304-A,279,337,338 of the Indian Penal Code.

2. Heard Mr. Mohit R.Deshmukh, learned counsel for applicant and Mrs. M.A.Deshpande, learned A.P.P. for Respondent – State. Perused case papers.

3. It is the case of prosecution that on 09/04/2015 truck bearing No. MH-14-AS-7524 was driven in a rash and negligent manner and it gave a dash to motorcycle No. MH-20-CJ-9369. After giving a dash to

motorcycle, said truck entered Aditya hotel and dashed against Sachin Khedkar, Natha Khedkar and their family members causing grievous injuries to Sachin and Natha who later on died. Report was lodged by the owner of Aditya hotel and on the basis of said report, above said crime came to be registered.

4. Learned counsel for applicant submitted that investigation is over and charge sheet has been filed. Learned counsel submits that provisions of Section 304 of the Indian Penal Code would not attract since it is a case of simple accident. Learned counsel submitted that applicant is permanent resident of Ambad Taluka, district Jalna and there is no likelihood of his fleeing from justice. Learned counsel urges that considering the nature of offences applicant be released on bail.

5. Per contra learned A.P.P. resisted the application and submitted that two persons have lost their lives because of the negligence of applicant. Learned A.P.P. submits that applicant is involved in a serious crime u/s 304 of the Indian Penal Code punishable with imprisonment for life. Looking to the nature of offences and manner of incident, learned A.P.P. prays to reject the application.

6. Applicant is the driver of offending truck. It can be seen from F.I.R. that allegations against applicant are regarding rash and negligent driving of truck and causing accident resulting into death of two persons. In

view of the allegations, prima facie offence u/s 304-A of the Indian Penal Code would attract in this case. The same is punishable with imprisonment for two years or fine or both.

7. So far as apprehension of prosecution that there is possibility of tampering with the evidence and applicant fleeing away is concerned that can be taken care of by imposing suitable conditions.

8. In the above premise this Court is inclined to allow the application. Hence, the following order.

ORDER

- (i) Criminal Application No. 4526 of 2015 is allowed.
- (ii) Applicant Santosh s/o Ganpat Warange is released on bail in Crime No. I-67/2015 registered at Paithan police station, district Aurangabad for the offences punishable u/ss 304,304-A,279,337,338 of the Indian Penal Code on his furnishing P.R. and S.B. of ₹ 25,000/- [Rupees Twenty Five Thousand] each.
- (iii) Applicant shall submit his address proof and shall not tamper with the prosecution evidence.

- (iv) Applicant shall make himself available as and when required for trial.
- (v) Parties to act upon authenticated copy of this Order.

[INDIRA K. JAIN]
JUDGE