

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

CRIMINAL ANTICIPATORY BAIL APPLICATION NO. 1006 OF 2015

Indrajeet Mokind Sanap. ... Applicant.
Versus
The State of Maharashtra. ... Respondent.

Mr. Kuldeep S. Patil, advocate for Applicant.

Ms. P.P. Shinde, APP for State.

CORAM : SMT. SADHANA S. JADHAV,J
DATE : JULY 27, 2015

P.C.:

1 Heard the learned Counsel for the applicant and the learned
APP for State. Peruse the papers.

2 This is an application under Section 438 of the Code of Criminal
Procedure, 1973. The applicant herein is apprehending his arrest in
Crime No. 78 of 2015 registered at Manor Police Station for offence
punishable under Section 304 part II, 337, 338, 427 of the Indian
Penal Code read with section 187, 134(A)(B), 122/177 of the Motor
Vehicles Act.

3 It is the case of the prosecution that the applicant herein happens to be the owner of the dumper bearing No. MH-04-GH-200. On 7/6/2015 said dumper was parked by driver of the dumper carelessly without keeping parking lights on and hence, there was an accident when the car of Vinayak Damodar Patil bearing registration No. MH 48 3443 dashed against the said dumper. In the said accident four persons had died as they were severely injured. The dumper was seized on the spot. The dumper was carrying six brass of sand.

4 Learned Counsel for the applicant submits that according to the prosecution, the applicant had illegally excavated sand. However, Section 379 is not added in the present FIR although the spot panchanama was conducted on the same offence. Offence under Section 304A is bailable offence. The conclusion that the accused has committed offence under Section 304 Part II of the Indian Penal Code can be arrived only after recording of substantive evidence. It is

further submitted that the applicant was not present on the spot nor he was driving the dumper. He is being prosecuted only by virtue of his being the owner of the dumber.

5 Taking into consideration the case of the prosecution and the submissions advanced across the bar, the applicant deserves grant of pre-arrest bail.

6 It is made clear that the observations made hereinabove are restricted to an application under Section 438 of the Code of Criminal Procedure, 1973 in Crime No. 78 of 2015 registered at Manor Police Station. The same shall not be considered while deciding the application for discharge or for quashing of FIR or at the time trial. The learned Trial Court shall decide the matter uninfluenced by the above said observations.

7 Hence, following order is passed :

ORDER

- (i) The application is allowed.
- (ii) In the event of arrest, the applicant be enlarged on bail on furnishing P.R. Bond in the sum of Rs. 25,000/- with one or two sureties in the like amount.
- (iii) The applicant shall report to the Manore Police Station from 1/8/2015 to 4/8/2015 between 10 a.m. to 1 p.m. and cooperate with the investigating agency to the best of his capacity.
- 8 The application is disposed of accordingly.

(SMT. SADHANA S. JADHAV,J)