

HIGH COURT OF CHHATTISGARH, BILASPUR

MCRC No. 5562 of 2016

- Vikas Sharma S/o Naresh Sharma Aged About 26 Years R/o Mahavir Nagar, Mangla Naka Chowk, Bilaspur, Police Station Civil Lines, Tahsil & District Bilaspur, Chhattisgarh. ---
Applicant

Versus

- State of Chhattisgarh through Station House Officer, Police Station Chakarbhata, District Bilaspur, Chhattisgarh. ---
Respondent

For the applicant	:	Mrs. Fouzia Mirza, Advocate
For the State	:	Mr. Vinod Tekam, Panel Lawyer
For the Objector	:	Mr. Kishore Narain, Advocate

Hon'ble Shri Justice Goutam Bhaduri

Order on Board

19.09.2016

1. This is first bail application filed under Section 439 of the Code of Criminal Procedure seeking grant of regular bail to the applicant in connection with Crime No. 163 of 2016 registered at P.S. Chakarbhata, Distt. Bilaspur (C.G) for the offence punishable under Sections 279, 337, 338, 304-A, 304 Part-II of IPC.
2. As per the prosecution case, a report was made by one Dr. Raman Kataria that while Pankaj Tiwari alongwith Dr. Sagar Kabra and Dr. Neha Kale were going to Ganiari from Bilaspur on motorcycle, at that time, the applicant who was driving the Indigo car in rash and negligent manner came on opposite wrong direction and dashed the motorcycle by going into foot path and subsequently the car struck against a tree and the applicant fled away. In the said accident, Dr. Sagar Kabra and Dr. Neha Kale have sustained serious injuries and there were admitted in hospital. During the

course of treatment Dr. Sagar Kabra died in Apollo Hospital and the other injured Dr. Neha Kale is still undergoing treatment.

3. Learned counsel for the applicant would submit that this is entirely a case of accident wherein section 304 Part II IPC has been added. She further submits that the statements of the injured have been recorded and no further investigation is necessary, therefore, at any rate, the the case cannot be brought under the provisions of Section 304 Part II IPC. It is further submitted that 3 persons were riding the motorcycle and thus they lost the control of the vehicle which caused the accident, therefore, he may be enlarged on bail.
4. Per contra, learned State Counsel opposes the bail and would submit that the investigation is still going on and the charge sheet has not been filed.
5. Learned counsel for the objector placed reliance on a decision of the Supreme Court in *State through PS Lodhi Colony, New Delhi Vs. Sanjeev Nanda (2012) 8 SCC 450*.
6. Perused the case diary and other documents.
7. A perusal of the case diary would show that the charge sheet has not been filed and the investigation is still going on. Considering these facts, I am not inclined to allow this bail application. Accordingly, it is rejected.
8. The applicant, if so advised, may file a fresh bail petition before the concerned trial Court after filing the charge sheet.

Sd/-

**GOUTAM BHADURI
JUDGE**