

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD
CRIMINAL APPLICATION NO.5373 OF 2016
IN
CRIMINAL APPEAL NO. 546 OF 2016**

Sanjay Bhavrao @ Baburao Sapkal .. Applicant

Versus

The State of Maharashtra .. Respondent

Mr.Balasaheb N. Magar, Advocate for the applicant

Mr.R.B.Bagul, APP for the respondent/State

CORAM : V.L.ACHLIYA, J.

DATED : 05.10.2016

P.C. :-

1. The applicant is convicted under Sections 279, 304, 304(A), 337, 338 and 427 of the Indian Penal Code and under Section 66 and 192-A of the Motor Vehicle Act and sentenced as under :

Section	Sentence
279 of IPC	To suffer R.I. for six months and to pay fine of Rs.1000/- I.D. S.I. for one month.
304 Part II of IPC	To suffer R.I. for ten years and to pay fine of Rs.5000/- I.D. S.I. for six months.
304-A of IPC	To suffer R.I. for two years and to pay fine of Rs.1000/- I.D. S.I. for one month.
337 of IPC	To suffer R.I. for six months and to

	pay fine of Rs.500/- I.D. S.I. for one month.
338 of IPC	To suffer R.I. for two years and to pay fine of Rs.1000/- I.D.S.I. for one month.
427 of IPC	To suffer R.I. for two years and to pay fine of Rs.1000/- I.D.S.I. for one month.
66 and 192-A of M.V. Act	To pay fine of Rs.5000/- I.D.S.I. for one month.

2. The applicant was tried for above said offences with allegations that on 21.02.2010 the applicant was driving pickup van bearing registration No. MH-20-AT-3069 meant for transportation of goods. At the relevant time the applicant was illegally carrying about more than 32 to 33 passengers in that goods carriage vehicle and driving the same in most rash and negligent manner, which resulted into death of 8 passengers and serious injuries to 22 passengers.

3. In nutshell the learned counsel for the applicant contended that the Trial Court has not properly appreciated the evidence on record. According to him the accident was occurred due to sole negligence on the part of the driver of the truck coming from opposite direction. Prosecution has failed to adduce any evidence to sustain the charge under Section 304 Part-II. He has

submitted that the applicant was on bail during the Trial. He is 32 years of the age and sole bread earning in his family. He urged to release the applicant on bail.

4. Learned APP has opposed the application with contention that there is strong case against the applicant. Prosecution has adduced sufficient evidence to prove its case. He has further submitted that the applicant is responsible for causing death of 8 persons and serious injuries to 23 persons and therefore the application be rejected.

5. Having appreciated the submissions advanced in the light of judgment and order passed by the Trial Court I am of the view that no case is made out enlarge the applicant on bail. It is apparent from the face of record that the vehicle meant for transportation of goods has been illegally used for carriage of the passengers. The Trial Court has observed that the witnesses to the incident have categorically deposed that the accident was occurred due to rash and negligent driving on the part of the applicant while overtaking the vehicle coming from opposite direction. So far as the submissions advanced that the Trial Court has not properly appreciated the evidence, the same can be considered at the stage of hearing of the appeal. Looking to the nature of the

offence, sentence awarded and the applicant has been held guilty for committing offence of culpable homicide not amounting to murder, resulting into death of 8 passengers and 23 persons sustained injuries, I am not inclined to entertain to enlarge the applicant on bail. However I am inclined to expedite the hearing of the appeal. Hence the following order.

Order

- i. Application is rejected.
- ii. Hearing of the appeal is expedited.
- iii. Trial Court is directed to expedite the work of preparation of paper book. Paper book be prepared and send within six months from date of order.
- iv. The applicant will be at liberty to move the Court for early hearing of the appeal after receipt of R & P with paper book.

[V.L.ACHLIYA,J.]