

Anand

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION**

BAIL APPLICATION NO.255 OF 2016

Roshan Singh Pritam Singh Pawar .Applicant

Vs.

The State of Maharashtra .Respondent

Ms Farhana Shah, Advocate, for the Applicant
Mr.D.P.Adsule, APP, for the Respondent – State

CORAM : REVATI MOHITE DERE, J.

DATE : 15.03.2016

P.C.

. Heard learned counsel for the Applicant
and the learned APP for the Respondent – State.

2. By this Application, the Applicant seeks
his enlargement on bail in connection with C.R.No.
I-65 of 2015 registered with the Uran Police
Station, District – Raigad, Navi Mumbai, for the
alleged offences punishable under Sections 279 &
302 of the Indian Penal Code r/w.184 of the Motor
Vehicle Act.

3. The incident in question has taken place on 17.03.2015. It is alleged that, when the Applicant, the driver of the trailer, was taking a turn at the T junction, he was asked to stop, however, instead of stopping, he drove fast. It is alleged that the Applicant drove the trailer and gave a dash to the traffic police constable Dilip Hari Patil, pursuant to which he was injured. Pursuant to the injuries sustained by the traffic police constable, he was taken for treatment, to the hospital, where he succumbed to the injuries on 09.04.2015. The complainant is Police Constable - Nilesh Avinash Gharat, who also is an eye witness to the said incident. He has alleged that the Applicant was driving the trailer and did not stop the vehicle, inspite of signalling him, to stop the vehicle. It is alleged that the Applicant drove the vehicle and dashed into the deceased with the intention to kill him.

4. Learned counsel for the Applicant submits that no offence as alleged is disclosed in the facts of the present case. She submitted that the Applicant was not drunk at the relevant time. She further submits that the Applicant has been in custody for more than one year.

5. Learned APP opposes the Bail Application. He submitted that the Applicant drove the vehicle in a rash and negligent manner and intentionally dashed into traffic police constable who was on duty, as a result of which the police constable succumbed to the injuries. He submitted that the Applicant is a resident of Uttar Pradesh and it would be difficult to secure his presence at the time of trial.

6. Learned counsel for the Applicant has tendered an Affidavit of the sister of the Applicant, which is taken on record. In the said

Affidavit, it is stated by the sister of the Applicant – Smt. Azim Banu Abdul Rajak Shaikh, that she is living at the address mentioned in the cause title given by the Applicant in the Application for the last 19 years and that the Applicant is staying with her. She has also undertaken to keep her brother present before the trial till the final disposal of the case.

7. Learned APP on the instructions of the investigating officer, who is present in Court does not dispute the fact that the Applicant's sister is residing at the address given in the cause title of this Application by the Applicant.

8. Perused the papers. It appears that the act of the Applicant, led to the unfortunate death of the traffic police constable, who was performing his duty, at the relevant time. As far as the question, as to whether the said act, would

constitute an offence punishable under Section 302 of the I.P.C. or would constitute a lesser offence, is a matter which will be decided by the trial Court.

9. In the peculiar facts of this and considering the Affidavit filed by the Applicant's sister, the Applicant is enlarged on bail on the following terms & conditions.

ORDER

(i) The applicant be enlarged on bail, on executing PR Bond in the sum of Rs.10,000/- with one or two local sureties in the like amount;

(ii) The applicant shall report to the investigating officer of the Uran Police Station, District - Raigad, Navi Mumbai on the first Saturday of every month between 2:00 p.m. to 3:00 p.m. till the conclusion of the trial;

(iii) The applicant shall not tamper or attempt to influence or contact the complainant, witnesses

or any person concerned with the case;

(iv) The applicant shall inform his latest place of residence and mobile contact number immediately after being released and/or change of residence or mobile details, if any, from time to time to the Court seized of the matter and to the Investigating Officer of the concerned Police Station;

(v) The applicant to cooperate with the conduct of the trial;

(vi) The Applicant shall file an undertaking with regard to the Clause Nos.(ii) to (v) within two weeks of his release;

(vii) If there is a breach of any of the aforesaid conditions, the prosecution shall be at liberty to seek cancellation of the applicant's bail.

10. The Application is allowed in the aforesaid terms and is accordingly disposed of.

11. It is made clear, that the observations made herein, are *prima facie*, and the trial Court shall decide the case on its own merits, in accordance with law, uninfluenced by the observations made in this order.

Parties to act on the authenticated copy of this order.

(REVATI MOHITE DERE, J.)