

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
BAIL APPLICATION NO. 948 OF 2016

Mr. Sudish M. Hegde

.....Applicant

V/s.

State of Maharashtra

.....Respondent

* * * * *

Mr. Dinesh Tiwari a/w Mr. Swapnil Ambure, Mr. Mikhail Dey, Ms. Sara Shaikh, Advocate for the applicant.

Ms. Sharmila Kaushik, APP for the respondent, State.

CORAM :- N. W. SAMBRE, J.

DATED :- 15TH DECEMBER, 2016.

P.C. :-

1). In Crime No. 280 of 2015 punishable under Sections 304, 285 read with Section 34 Indian Penal Code registered on October 16, 2015 the applicant is seeking regular bail. It is the case of the prosecution that, the applicant, was the owner of the premises where the restaurant was running, which was rented out to main accused, Sharad Tripathi. In view of leakage of gas from the cylinder stored on mezzanine floor, fire started resulting into death

of about eight persons on the mezzanine floor of the restaurant.

2). The applicant came to be arrested being the owner of the premises.

3). While seeking regular bail, the learned Counsel for the applicant submits that, apart from the admitted fact that the applicant is the owner, there is hardly any material to connect the applicant to the crime in question. According to him, the investigation in the matter is complete, chargesheet is already filed and the applicant is very much available for investigation and prosecution.

4). The learned APP strenuously opposes the application on the ground that the nature of offence is too serious in which about 8 persons have lost their lives. Even if the applicant has rented out the premises still he is vicariously liable.

5). What could be gathered from the material available on record is that the main accused, Sharad is already released on regular bail on the basis of statement made under Section 167(2) Criminal Procedure Code. However, perusal of the chargesheet does not disclose any material to infer applicant's, *prima-facie*, involvement in the crime in question, when prosecution has come out with a story of letting out the restaurant premises by the applicant to the said accused.

6). There is hardly any material to *prima-facie* infer that the applicant was supervising the running of restaurant or was in any

other manner involved in the business of running and administering the restaurant in question. Apart from the fact of ownership, there is nothing to connect him to the crime in question.

7). There are no criminal antecedents. The applicant is very much available for prosecution. Hence, the Bail Application is allowed. In the event of arrest of the applicant, he be released on bail on furnishing P.R. Bond of Rs.50,000/- (Rs. Fifty Thousand only) with one or two sureties in the like amount.

8). Any two consecutive absence of the applicant before the lower Court will entail the learned trial Court Judge to adopt appropriate proceedings for cancellation of bail.

9). The applicant to attend police station as and when called.

10). The applicant shall not tamper with the evidence and/or influence the witnesses in any manner whatsoever.

11). The observations made in the order are restricted only for the purpose of bail.

(N.W. SAMBRE, J)