

THE HON'BLE SRI JUSTICE T.SUNIL CHOWDARY

CRIMINAL PETITION No.6450 of 2017

ORDER:

This petition is filed, by the petitioner/accused, under Sections 437 and 439 Cr.P.C., seeking regular bail in Crime No.118 of 2017 on the file of the Station House Officer, Mangalagiri Town Police Station, Guntur Urban, registered for the offence punishable under Section 304-II I.P.C.

2. The facts leading to filing of the present petition are briefly as follows: One Shaik Mohammad – *de facto* complainant lodged a report to the Station House Officer, Mangalagiri Town Police Station, stating that on 26.05.2017 at about 3:00 AM when he came to car wash service centre run by him, he noticed that driver of the lorry bearing No.KA-56-2739 started the lorry and proceeded towards Guntur. Later, he found one male person died in the parked place of the above said lorry. The petitioner being the driver of the lorry, without observing the person (deceased) drove the lorry, in a rash and negligent manner, which resulted in death of the deceased. Basing on the same, the present crime is registered.

3. The learned counsel for the petitioner submitted that the deceased without the knowledge and consent of the driver of the vehicle slept underneath of lorry; therefore there was no intention or negligence on the part of the petitioner to cause the death of the deceased. He further submitted that even if the allegations made in the complaint *ex facie* taken to be true and correct, no *prima facie* case is made out against the petitioner for the offence

punishable under Section 304-II I.P.C. He also submitted that the petitioner is the only breadwinner of the family; therefore, it is a fit case to allow the petition.

4. *Per contra*, the learned Additional Public Prosecutor submitted that the allegations made in the complaint *prima facie* constitute the offence alleged to have been committed by the petitioner. He further submitted that the investigation is in progress; therefore, it is not a fit case to grant bail to the petitioner.

5. A perusal of the record reveals that the petitioner belongs to the State of Maharashtra. If he is released on bail, the possibility of securing his presence for any purpose is difficult. In view of pendency of the investigation, I am of the considered view that it is not a fit case to grant bail to the petitioner at this stage.

6. Accordingly, the Criminal Petition is dismissed.

Date: 03.08.2017
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T.SUNIL CHOWDARY, J