

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

ANTICIPATORY BAIL APPLICATION NO.288 OF 2018

Subhash Vyankat Pawar Applicant
 Vs.
The State of Maharashtra Respondent

Mr. Mahindra Balasaheb Deshmukh for the Applicant.
Mr. S.R. Agarkar APP for the State.

Coram : *Smt. Sadhana S. Jadhav, J.*
Date : *16th February, 2018*

P.C.:

1 Heard the learned counsel for the applicant and the learned APP.

2 This is an application under Section 438 Code of Criminal Procedure. The applicant herein is apprehending his arrest in Crime No.298 of 2017, registered at Shirwal Police Station, District Satara, for the offences punishable under Sections 279, 338, 304(2) of Indian Penal Code and 134(a)(b), 319, 184 of Motor Vehicles Act.

3 It is the case of the prosecution that the applicant herein happens to be the owner and driver of vehicle TATA 407 vehicle bearing registration no. MH-12 FD-1241. The applicant was engaged

in transporting vegetables from one place to another. It is the case of the prosecution that on 12th December 2017, Arun Baburao Bhise, who happens to be the Police Naik at the police station lodged a report at the police station that on 9th December 2017, at about 9.00 pm., he received a message about an accident. The report was given by Mahadev Gulab Chavan. It is stated that on 9th December 2017 at about 6.30 pm., he alongwith Dhananjay Tukaram Chavan, Sahadev Kondiba Chavan were transporting onions in TATA 1109. That Chandrakant Chavan had also accompanied them. They had stopped at Bholi stop. He had parked the vehicle. Chandrakant was sitting alongwith Mahadev Chavan. They suddenly realised that their tempo was given a dash. They alighted from the vehicle and saw that Chandrakant had fallen down and had sustained injuries to his legs and his abdomen. They sustained traumatic injuries to his left arm and left leg. Soon thereafter the tempo driver had fled from the spot to rescue himself from the mob. Chandrakant was taken to Joglekar hospital, where he was declared dead. The applicant was driving the tempo, which dashed the vehicle of the first informant. The impact of the dash was so grave that Chandrakant had fallen down and sustained injuries. It appears that the applicant had thereafter taken the vehicle in reverse position and then fled from the spot.

4 Learned counsel for the applicant vehemently submits that on 9th December 2017, there was lot of fog on the road and he

had not seen the vehicle, which was parked and therefore had dashed the said vehicle. According to the learned counsel the applicant was not rash and negligent and that no offence under Section 304(II) of Indian Penal Code can be attracted. Hence, the applicant had approached the Court of Sessions seeking pre-arrest bail. Initially he was protected by way of ad-interim relief. On 8th January 2018, the application seeking pre-arrest bail was rejected by the Sessions Court. The applicant was without any protection till today. This Court is of the opinion that the case for pre-arrest bail is not made out. Hence, rejected.

(Smt. Sadhana S. Jadhav, J)