

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
CRIMINAL BAIL APPLICATION NO. 661 OF 2018**

Suraj Ganesh Singh	...Applicant
Versus	
The State of Maharashtra	...Respondent

Mr. Jagdish H. Sawant for the Applicant

Ms. J. S. Lohokare, A.P.P for the Respondent-State

PI Mr. Sanjay M. Dalvi from Sewree Police Station, is present

CORAM : REVATI MOHITE DERE, J.
TUESDAY, 10th APRIL, 2018

P.C. :

1. Heard learned Counsel for the parties.
2. By this application, the applicant, who is aged 19 years is seeking his enlargement on bail in connection with C.R. No. 79 of 2017 registered with the Sewree Police Station, for the alleged offence punishable under Section 302 of the Indian Penal Code.
3. Perused the papers. According to the prosecution, on 15th July, 2017, there was some quarrel that arose between the deceased-Riyaz and

the present applicant, who were employed at Laxmi Petrol Pump. It appears that the nature of dispute was nothing serious and that it was a verbal quarrel that ensued between them. It appears from the statement of an eye-witness Sahir Pathan that the applicant left the petrol pump and that Riyaz followed him. It appears that deceased-Riyaz and the applicant pushed each other near the road divider, pursuant to which, Riyaz fell on the road and was run over by a motor trailer, pursuant to which, he sustained serious injuries and succumbed to the same in the hospital.

4. Considering the statements of the witnesses, *prima facie*, it is doubtful whether an offence is made out under Section 302 of the Indian Penal Code. Whether there is intention on the part of the applicant to cause the death of the deceased-Riyaz by pushing him, or whether the deceased lost his balance and came under the vehicle, is a matter, which would be decided by the trial Court. Similarly, merely because the applicant is a resident of Nepal cannot be a ground for denying the bail. The applicant is in custody since 15th July, 2017. Investigation is complete and charge-sheet is filed. The presence of the applicant can be secured by imposing stringent conditions.

5. Accordingly, the application is allowed and the applicant is enlarged on bail on the following terms and conditions :

ORDER

- (i) The applicants be enlarged on bail, on executing PR Bond in the sum of Rs. 20,000/- each, with one or two local solvent sureties in the like amount;
- (ii) The applicant shall not leave the jurisdiction of Mumbai City without the permission of the trial Court;
- (iii) The applicant shall attend the concerned Police Station on the first and third Saturday of every month between 5:00 p.m. to 6:00 p.m., till the conclusion of the trial;
- (iv) The applicant shall not tamper or attempt to influence or contact the complainant, witnesses or any person concerned with the case;

(v) The applicant shall inform their latest places of residence and mobile contact numbers 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;

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

(vii) The applicant shall file an undertaking in the trial Court with regard to clauses (ii) to (vi), within two weeks of his release;

(viii) If there are two consecutive defaults in appearing before the trial Court or in reporting to the Investigating Officer and 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.

6. The application is accordingly disposed of.

7. 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.

8. All concerned to act on the authenticated copy of this order.

REVATI MOHITE DERE, J.