

3- BA 1311 of 2018

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

BAIL APPLICATION No. 1311 OF 2018

Mr. Laxman @ Pappu Sambhaji Pole

...Applicant

Vs.

State of Maharashtra

...Respondent

Mr. Niranjan Mundargi i/b. Mr. Kunal D. Ambulkar for Applicant

Ms. Veera Shinde -APP

Mr. S.A. Pawar, Police Naik, Loni Kalbhor Police Station, Pune (Gramin)

CORAM : SMT. SADHANA S. JADHAV, J.

DATE: JUNE 14, 2018

P.C.

1. Heard. This is an application filed under section 439 of the Criminal Procedure Code. The Applicant is arrested on 9th of January, 2018 in Crime No. 32 of 2018 registered at Loni Kalbhor Police Station for the offence punishable under Section 304(2), 337, 338, 427 of the Indian Penal Code and under section 184, 134, 177 of the Motor Vehicles Act.

2. It is the case of the prosecution that on 18th January, 2018 one Sunil Dattatray Kanchan i.e. the First Informant residing at Urali Kanchan lodged a report at the police station alleging therein that on 18th January, 2018, at about 7.20 a.m., a truck bearing No. MH 26 AD 3649 had come from the direction of

Pune and had dashed to a vehicle being Tata Magic bearing No. MH 42 K 173. The first informant had seen the accident. It is alleged that thereafter, the driver of the truck had lost the balance and had dashed again a two wheeler and has caused damaged to the same. Similarly, six persons were injured. On the basis of the report, the offence was registered. Investigation was set in motion.

3. In the course of investigation, the Investigating Officer had recorded the statements of several witnesses. On the very next day, i.e. on 19th January, 2018 the Applicant herein was arrested on the ground that at the relevant time, he happens to be the driver of the said truck, which had caused accident. One of the injured viz. Waman Kanchan and Raju Singh had subsequently expired on 19th January, 2018. A notice was issued to Gajanan Kawade, who happens to be the registered owner of the Tata Magic Vehicle , which had caused the accident. It is pertinent to note that the compilation of the charge-sheet does not contain the statement of the owner of the truck to show that the present Applicant was the driver of the said truck on 18th January, 2018 at 7.20 a.m.

4. A notice was issued to Pravin Hendre, who was a driver of the Tata Magic Vehicle. The statement was recorded on 24th January, 2018. It is only

after the arrest of the Applicant that the supplementary statement of the said witness was recorded to show that they had learnt from the police that the present Applicant was arrested on the ground that he was the driver of the said truck at the relevant time.

5. Taking into consideration the fact that there is no prima facie material against the present applicant to hold him liable under section 304 A of the Indian Penal Code, this Court is of the opinion that the Applicant has made out a case for grant of bail. The observations made hereinabove are prima facie in nature and are restricted only for the present application filed under section 439 of Cr.P.C. and shall not be taken into consideration for the purpose of deciding the application of discharge or at the time of trial. Hence, the following order:

ORDER

- (i) Bail application is allowed.
- (ii) The Applicant be enlarged on bail on furnishing a P.R. Bond of Rs.30,000/- and one and more solvent sureties in the like amount.
- (iii) The Applicant shall report to the Lonikalbhor Police Station as and when called.
- (iv) At this stage, the learned counsel for the Applicant prays for temporary cash bail. The prayer is granted. The Applicant shall be released on

provisional cash bail of Rs.30,000/- for four weeks, within which he shall furnish the solvent surety in the like amount.

The bail application stands disposed of in the aforesaid terms.

[SMT. SADHANA S. JADHAV, J.]