

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
CRIMINAL BAIL APPLICATION NO. 2992 OF 2017**

Raees Badshah Khan	...Applicant
Versus	
The State of Maharashtra	...Respondent

Mr. Satyavrat Joshi for the Applicant

Mr. A. A. Palkar, A.P.P for the Respondent-State

CORAM : REVATI MOHITE DERE, J.
TUESDAY, 3rd APRIL, 2018

P.C. :

1. Heard learned Counsel for the parties.

2. By this application, the applicant seeks his enlargement on bail in connection with C.R. No. I-127 of 2017 registered with the CBD Police Station, Navi Mumbai, for the alleged offences punishable under Sections 279, 304, 304A, 337, 338 of the Indian Penal Code and Sections 184, 134 of the Motor Vehicles Act.

3. Perused the charge-sheet. It is the prosecution case that the applicant (owner of OLA Swift Desire Car bearing No.MH-46 BB 0462) had given the said vehicle to co-accused Majeed Khan. According to the

prosecution, Majeed Khan was driving the said Ola vehicle rashly and negligently and dashed one motorcycle bearing No. MH-04-FQ-1924, resulting in serious injuries to the motorcycle rider-Sachin Surve. It is further alleged that co-accused Sachin Surve on the pretext of providing medical aid to Sachin took Sachin in his car for the purpose of admitting him in a hospital and thereafter, in collusion with the applicant, threw Sachin on the road near Sector 27 at Nerul and fled away from the spot. As Sachin did not receive medial aid, he expired.

4. Admittedly, the applicant is the owner of the Ola Vehicle, which was given by the applicant to co-accused Majeed; admittedly the applicant was not present at the spot and was not responsible for the act of Majeed i.e. dashing the motorcycle and causing serious injuries to Sachin. Thus, the role of the applicant is clearly distinguishable from that of Majeed. *Prima facie*, the applicant cannot be liable for the offence punishable under Section 304 or 304A of the Indian Penal Code. The applicant is in custody since 15th July, 2017. Investigation is complete and charge-sheet is filed.

5. Considering the aforesaid, the applicant deserves to be enlarged on bail on the following terms and conditions :

ORDER

- (i) The applicant be enlarged on bail, on executing PR Bond in the sum of Rs. 25,000/- with one or two sureties in the like amount;
- (ii) The applicant shall attend the concerned Police Station on the first Sunday of every month between 10:00 a.m. to 11:00 a.m. till the conclusion of the trial;
- (iii) The applicant shall not tamper or attempt to influence or contact the complainant, witnesses or any person concerned with the case;
- (iv) The applicant shall inform his latest place of residence and mobile contact number 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;

- (v) The applicant to cooperate with the conduct of the trial;
 - (vi) 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 allowed in the aforesaid terms and 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.