

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY  
CRIMINAL APPELLATE JURISDICTION  
CRIMINAL BAIL APPLICATION NO. 1675 OF 2019**

|                              |               |
|------------------------------|---------------|
| Jaiprakash Mangruram Chouhan | ...Applicant  |
| Versus                       |               |
| The State of Maharashtra     | ...Respondent |

Mr. Satish Upadhyay for the Applicant

Ms. P. P. Shinde, A.P.P for the Respondent-State

PSI Mr. G. S. Sule from Local Crime Branch, Thane Rural, is present

WPSI Ms. R. V. Ratne from Kasarwadavali Police Station, Thane City, is present

**CORAM : REVATI MOHITE DERE, J.**  
**WEDNESDAY, 18<sup>th</sup> SEPTEMBER 2019**

**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-234 of 2017 registered with the Kasarwadavali Police Station, Thane City, for the alleged offences punishable under Sections 302, 120B, 201 of the Indian Penal Code.

3            Learned counsel for the applicant submits that it is a case of accident and not of homicide. He submits that there is no material to

connect the applicant with the alleged offence and to show that the applicant was in a relationship with co-accused-Sumari Yadav.

4            Learned A.P.P opposed the application. She submits that there is ample material on record to show the complicity of the applicant in the alleged offence. Learned A.P.P has filed an affidavit of Avinash E. Kaldate, PI (Crime) attached to Kasarvadavali Police Station, Thane City, Thane.

5            Perused the papers. The prosecution case rests on circumstantial evidence. The complainant-Premnath Sharma is the cousin brother of deceased-Ramji Sharma. According to the prosecution, the incident took place on 18<sup>th</sup> November 2017 at about 5:19 a.m, when the deceased-Ramji Sharma had gone for his morning walk. According to the prosecution, deceased-Ramji was in a relationship with co-accused-Sumari Yadav, who was also having relations with the applicant, which was not liked by the deceased. It is alleged that pursuant thereto, the accused entered into a conspiracy to kill the deceased. According to the prosecution, on 18<sup>th</sup> November 2017, the applicant, who was driving a Swift Desire Car, deliberately and intentionally dashed into deceased-Ramji, when he was taking his morning walk. During the course of investigation, the applicant and co-accused-Sumari Yadav were arrested.

6           The material on record shows that the applicant had given his SIM Card to Sumari Yadav for use and that there were continuous calls between them prior to the incident and post-incident i.e. 18<sup>th</sup> November 2017. It appears that the applicant had taken his car near the spot where the deceased would take a walk on 14<sup>th</sup>, 15<sup>th</sup> and 16<sup>th</sup> at about 5:30 a.m, to do reckee. The CDR location of the applicant bears testimony to the same. On 18<sup>th</sup> November 2017, the CDR shows the presence of the applicant in the said area. It is pertinent to note, that the applicant No. 2-Sumari Yadav had called the deceased at about 4:52 and 5:02 a.m and the CDR also shows that thereafter, there were exchange of calls between the accused No. 2 and the applicant prior to the incident and post the incident. The Swift Car which was used in the commission of the offence belonged to Dharmendra Chauhan, who had given the said car to the applicant for driving the same. In the incident that took place, when the applicant knocked down the deceased, the car which was allegedly driven by the applicant, was damaged i.e. the left side headlight, side mirror and focklam cover of the Car. It appears from the forensic report, that the items that were seized on the spot and what was collected during investigation, matched the mirror (right side), of the car, thus, showing that the car which was driven by the applicant had knocked down the deceased. The

statement of Dharmendra Chauhan, owner of the Swift Desire Car shows that he was aware that there were some relationship between the applicant and co-accused-Sumari Yadav. There are statements of witnesses i.e. Umesh, Ranvirkumar, Suryanarayan and Sanjaykumar, which point to the complicity of the applicant. The car, after the incident, was sent for repairs to the said persons, as the focklam cover, left side mirror were broken.

7           Considering the *prima facie* material on record, this is not a fit case to enlarge the applicant on bail. The possibility of the applicant absconding, also cannot be ruled out, nor can the possibility of the applicant tampering with the witnesses be ruled out. The application is accordingly rejected. However, the trial of the applicant is expedited.

8           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.

**REVATI MOHITE DERE, J.**