

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
NAGPUR BENCH : NAGPUR.

Criminal Application (BA) No.482 of 2019
(Naresh Hemantrao Nikam .vs. State of Maharashtra through PSO PS
Warora, Dist. Chandrapur.)

Office Notes, Office Memoranda of Coram,
appearances, Court's orders or directions
and Registrar's orders

Court's or Judge's orders.

Mr. R.S. Nayak, Advocate for Applicant
Mr. M.J. Khan, APP for Non-applicant/State.

CORAM : Manish Pitale, J.
DATED : June 27, 2019.

The applicant herein has approached this Court seeking bail as he was arrested on 13.03.2019 in respect of alleged offences under Sections 302, 307, 353, 332 and 333 read with 34 of the IPC, read with Sections 184, 83/177 of the Motor Vehicles Act and also under Section 11 of the Maharashtra Animal Cruelty Act.

2. The FIR in the present case was registered on 21.01.2019 wherein the applicant was not named as an accused person. Upon investigation, on 06.02.2019, the applicant was added as an accused for the incident that took place on 20.01.2019.

3. In the said incident, it is alleged that while vehicles illegally carrying animals were being driven, upon Police personnel seeking to inspect them, the vehicles were driven at a fast pace due to which one Police personnel was run over by one of the vehicles and

he died and the other vehicle was driven in such a manner that Police Constable was almost run over and killed, thereby constituting the offences as noted above.

4. It is pointed out by the learned counsel for the applicant that he was arrested on 13.03.2019 and that he has been behind bars since then. The investigation was completed and the charge-sheet was filed on 15.04.2019.

5. The material on record shows that the case of the prosecution against the applicant herein concerns only the alleged offence under Section 307 of the IPC. The role attributed to the applicant was that he was constantly in touch on mobile phone with one of the persons who was occupant of the vehicle that was used for committing the said offence under Section 307 of the IPC. It was alleged that during the conversation, the applicant instigated the person occupying the said vehicle and the co-accused to drive the vehicle fast to escape the interception by Police personnel resulting in the said incident.

6. The learned counsel for the applicant has invited attention of this Court to call detail records that have been placed along with the charge-sheet on behalf of the prosecution. It is pointed out that the records show that the applicant was speaking to one Mohd. Adil Abdul Bashid during the relevant period, while the person alleged to be occupant of the vehicle in question was one Mohd Adil @ Gotu Mohd. Sadiq Pathan. It was

also pointed out that call detail records demonstrated that the said Mohd Adil @ Gotu Mohd. Sadiq Pathan was in touch with one Mohd. Adil Abdul Bashid. On this basis, it was contended that even the role that was attributed to the applicant was rendered seriously doubtful.

7. Although the learned APP has opposed grant of bail in the present case, a perusal of the aforesaid documents pointed out by the learned counsel for the applicant, *prima facie*, show that the applicant was perhaps not in touch with Mohd Adil @ Gotu Mohd. Sadiq Pathan, who even according to the applicant, was the person occupying the vehicle in question. It is also not the case of the prosecution that the applicant was either a co-occupant of the vehicle or he was driving the vehicle in question.

8. In these circumstances, the applicant has been able to make out a *prima facie* case in his favour and, therefore, the present application deserves to be allowed, particularly in the light of the fact that charge-sheet in the present case was filed on 15.04.2019 and the investigation is complete.

9. In view of the above, the application is allowed and the applicant is directed to be released on bail on the following conditions:-

- (a) The applicant shall furnish PR bond of Rs.25,000/- and a surety in the like amount.
- (b) The applicant shall remain present before the

trial Court on each and every date of the proceedings.

(c) The applicant shall not tamper with the evidence or influence the witnesses.

JUDGE

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