

IN THE HIGH COURT OF JUDICATURE AT BOMBAY,
NAGPUR BENCH, NAGPUR

CRIMINAL APPLICATION (BA) NO.1128/2019

Amit s/o Chamanlal Sharma

..VS..

State of Mah., thr. PSO PS Karanja (City), District Washim

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

Court's or Judge's Order

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Shri A.S.Dhore, Counsel for the Applicant.
Shri N.R.Rode, Addl.P.P. for the State.

CORAM : V.M.DESHPANDE, J.

DATED : DECEMBER 16, 2019.

1. This is an application for grant of bail.
2. The applicant is arrested on 7.7.2019 in connection with Crime No.287/2019 registered with Karanja (City) Police Station, Washim for offences punishable under Sections 304 and 338 of the Indian Penal Code read with Sections 181(3), 184, and 185 of the Motor Vehicles Act, 1988.
3. Heard learned counsel Shri A.S.Dhore for the applicant and learned Additional Public Prosecutor Shri N.R.Rode for the State. Also, perused reply filed on behalf of the State and copy of chargesheet placed on record along with this application.
4. It is submission of learned counsel Shri A.S.Dhore for the applicant that the applicant is arrested on 7.7.2019 and, therefore, the prosecution cannot be

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permitted to rely on certificate given by Medical Officer at Rural Hospital, Karanja (Lad), District Washim dated 5.7.2019 to show that the applicant was under influence of liquor especially when there is scoring in name of a person. He submitted that now investigation is over and, therefore, custodial presence of the applicant is not at all required.

5. On 6.7.2019, a report was lodged by Abhijeet Devidas Jirapure in respect of occurrence dated 5.7.2019 occurred in night hours on a highway wherein vehicle Tata-Xenon, bearing registration No.MH-30/AV/1084 driven at a breakneck speed, gave a dash to two-wheeler Hero Honda (Plus) bearing registration No.MH-37/1793 which was plied by Gaurao Prakash Jirapure and pillion rider was Dhnyaneshwar. Due to the said dash, Gaurao lost his life on spot itself. No dispute was made before this Court that after the incident, the applicant was taken into custody by mob and he was beaten.

6. General Diary Detail's entry reads as under:

यावेळी आम्ही मपोडपनि शिंदे नोंद करतो की आमची १४ ते २० दरम्यान डिओ ड्युटी असतांना पो. स्टे. च्या फोन वर आम्हाला माहिती मिळाली की कारंजा ते आखतवाडा रोडवर समृद्धी कंस्ट्रक्शन च्या कार्यालयापासून काही अंतरावर दोन वाहनांचा गंभिर अपघात झाला आहे. या माहितीवरून आम्ही पो कॉ

५८४ व डिनापोको ३७ असे सरकारी वाहनाने घटनास्थळावर रवाना झालो संबंधीत अपघाताची माहिती सपोनि तसरे सा नापोको ११३०, ११५०, १०७४ पोउनि खंडार यांना पो स्टे द्वारे माहिती दिल्याने अपघात स्थळी आमचे सह पोहचलो. आम्ही घटनास्थळी गेलो असता तेथे एक मो सा एम एच ३७ १७९३ व हिरो होन्डा स्पलेंडर काळया रंगाची अपघातग्रस्त स्थितीत तसेच टाटा बोलेरो कंपनीचे yenon नावाचा कॅम्पलर वाहन क्र एम एच ३० एबी १०८४ जळत्या स्थितीत मिळून आले. टाटा बोलेरो कंपनीचे yenon नावाचा कॅम्पलर वाहन क्र एम एच ३० एबी १०८४ घटनास्थळावरील जमावानी आग लावली च्या लोकांकडून समजले. आम्ही घटनास्थळावरून अपघातग्रस्त वाहन क्र एम एच ३० एबी १०८४ ला कारंजा ग्रा पो स्टे ला तपास कामी लावली तसेच अपघातग्रस्त मो सा एम एच ३७/१७९३ पो स्टे कारंजा शहर आले. सदर अपघातील मो सा क्र एम एच ३७/१७९३ वरील वाहन स्वार यांना

जखम असल्याने दोन्ही जखमींना अकोला व अमरावती येथे खाजगी रूग्णवाहीकेद्वारे रेफर केले तसेच वाहन क्र एम एच ३० एबी १०८४ चालक यास जमाव मारहान करीत असतांना त्यास जमावाच्या तावडीतून सोडून पो स्टे कारंजा ग्रा चे स्टॉप मदतीने कारंजा शहरला आणून त्यांनी हजर केले सदर अपघाताची माहिती पो नि सा यांना देवून आम्ही व पो स्टॉफ पो स्टे ला परत पुढिल कार्यवाही करण्याची तजविज ठेवली आहे तसेच सदर अपघाताची नोंद अपघात रजिस्टरला नोंद घेण्यात आली.

Chargesheet also shows that on 5.7.2019 itself the said person was referred for his medical examination and accordingly on 5.7.2019 the said person was examined by Medical Officer. Medical Report shows that the said person was under influence of liquor and his name was shown as Abhishek Pritamrao. Name of applicant is Amit s/o Chamanlal Sharma. Therefore, it is submission of learned counsel for the applicant that the said report is not helpful to the prosecution. Perusal of the said Medical Report shows that name of Abhishek Pritamrao is scored and name of Amit Chamanlal Sharma is written and it is counter

signed by Medical Officer on 11.7.2019.

7. Formal arrest of the applicant is on 7.7.2019. He was referred for his medical examination on 5.7.2019. His Medical Report is also part and parcel of chargesheet and it shows abrasions and history shows assault on him. It will be always open for the prosecution to explain incorrect recording of name in Medical Certificate dated 5.7.2019 by Medical Officer.

8. A fact remains that on 5.7.2019 when the applicant was driving vehicle, he met with an accident and he was brought to Medical Officer and he was found under influence of liquor.

9. As per reply and as per statement of one Arun Pralhadrao Wathode, the applicant without his permission took offending vehicle unauthorizedly. His statement shows that he was in habit of attending work under influence of liquor.

10. Statement of contractor Narayan Chitarmal Agrawal, also substantiates fact that the applicant without any authority took out vehicle which ultimately involved in fatal accident. Narayan's statement also shows that the applicant was in habit of attending office under influence of liquor, used to pick up quarrels and, therefore, he was removed from work, and still without any authority, he took vehicle to his possession.

11. The Court cannot keep blind eyes as to what is happening in society. There is a rising trend of driving

vehicles under influence of liquor. Approach of the Court, in my view, in such cases, should be very strict one inasmuch as merely because chargesheet is filed that cannot be reason for letting such accused on bail. When the applicant was driving vehicle under influence of liquor and gave a dash to vehicle, resulting into death of a person and the applicant was taken into custody by mob that substantiates that he was behind wheels of vehicle at least *prima facie*.

12. In this view of the matter, I pass following order:

ORDER

(1) The criminal application is rejected.

(2) Learned Judge of Court below before whom Trial is pending shall decide the same in accordance with law within a period of 1½ years from today. If the Trial is not decided within the stipulated period, the applicant will be at liberty to approach again before this Court.

With this, the criminal application stands disposed of accordingly.

JUDGE

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