

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

CRIMINAL APPLICATION (BA) NO. 650 OF 2020

(Shrikrishna s/o Sahebrao Mirge vs. The State of Maharashtra thr. PSO, PS Jalamb, Tahsil –
Shegaon, District - Buldana)

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

Court's or Judge's orders.

Shri R.M. Daga, Advocate for the applicant.
Shri S.M. Ghodeswar, APP for the non-applicant –
State.

.....

CORAM : PUSHPA V. GANEDIWALA, J.
NOVEMBER 23, 2020.

Heard Shri Daga, learned counsel for the
applicant and Shri Ghodeswar, learned APP for the
non-applicant – State, through video conferencing.

2. The applicant, who was arrested on 29.04.2020 for the offence punishable under Sections 302, 353, 143, 109, 269 and 270 of the Indian Penal Code along with Section 51(b) of Disaster Management Act, 2005, Sections 2, 3 and 4 of Epidemic Regulations, 2020, registered vide Crime No. 94 of 2019 by the Police Station Jalamb, Tahsil – Shegaon, District – Buldana, has filed this application for grant of bail.

3. It is the case of the prosecution that on 29.04.2020, one Shrikrishna Wankhede had lodged report with Police Station, Jalamb, alleging that in the night of 28.04.2020, Police Constable (P.C.) – Umesh Sirsat tried to stop a tipper at Matargaon – Varad Road, as the information was received by the Police that one Bharat Mirge and Vishal Gawali are illegally transporting sand in the said tipper. When P.C. Umesh Sirsat asked the driver to stop the tipper, instead of stopping, the driver drove the tipper on the person of Shri Umesh Sirsat, due to which P.C. Umesh Sirsat died. It is alleged in the report that total five persons were present in the said tipper. On the report of Shrikrishna Wankhede, FIR was registered against Vishal Gawali and Bharat Mirge and three unknown persons and charge sheet was filed.

4. Shri Daga, learned counsel appearing for the applicant submitted that accused Nos. 3 & 4 are already granted bail by this Court vide order dated 06.08.2020 passed in LD-VC-Criminal Application (BA) No. 703 of 2020. The learned counsel further submitted that except his mobile, nothing is seized from the present applicant. He is neither the owner nor the driver of the offending vehicle. The learned

counsel, therefore, urged for grant of bail to the applicant.

5. Shri Ghodeswar, learned APP appearing on behalf of the non-applicant – State filed affidavit-in-reply and strongly opposed the application for bail and submitted that the present applicant was sitting in the cabin of tipper and CDR of the mobile shows that the present applicant was continuously in contact with other accused prior and after the incident. It is also alleged that the present applicant instigated the driver to run over the vehicle over the deceased Police Constable Umesh Sirsat.

6. I have considered the submissions made on behalf of both sides.

7. At the outset, on perusal of the charge sheet with the assistance of both counsel, it appears that the role attributed to the present applicant is not greater than the role attributed to the co-accused Gopal Shamrao Bele, who is on bail. Undisputedly, the present applicant, aged about 23 years was neither the driver nor the owner of the tipper. There are vague allegations that at the instigation of this applicant, the tipper was run over the deceased. The affidavit in reply does not mention about criminal

antecedents of the present applicant. The CDR of mobile showing continuous contact with the accused inter-se, would not at this stage clearly disclose the actual plan for commission of offence.

8. On the ground of parity, in the opinion of this court, the applicant is entitled to be released on bail. Hence, the following order :

(i) Criminal Application is allowed on the applicant Shrikrishna s/o Sahebrao Mirge executing Personal Bond of Rs.30,000/- (Rs. Thirty thousand only) with one surety in the like amount.

(ii) The applicant shall attend Police Station once in a month on every first Thursday of the month.

(iii) The applicant shall not in any manner tamper with the prosecution witnesses.

9. Needless to mention that the observations made in this order are strictly for deciding the present application for bail.

JUDGE

*GS.