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

LD-VC-CRIMINAL APPLICATION (BA) NO. 703 OF 2020

(Gopal Shamrao Bele & Anr. Vs. State of Maharashtra)

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

Shri S.B. Gandhe, Advocate for the applicants.
Shri P.S. Tembhare, A.P.P. for the non-applicant.

CORAM : PUSHPA V. GANEDIWALA, J.
AUGUST 06, 2020.

Heard Shri Gandhe, learned counsel for the applicants and Shri Tembhare, learned A.P.P. for the non-applicant through Video Conferencing.

2. The applicants are said to be arrested on 29/04/2020 in connection with Crime No.94/2020 dated 29/04/2020 registered at Police Station, Jalamb, District Buldhana for the offences punishable under Sections 353, 302, 143 and 109 of the Indian Penal Code, Section 51(b) of the Disaster Management Act, 2005, Sections 2, 3 and 4 of the Epidemic Diseases Act, 1897 and Section 11 of the Maharashtra COVID-19 Regulations, 2020.

3. Perused the application, affidavit-in-reply and the documents annexed.

4. It is alleged that at the instigation of the present applicants, the driver of the tipper ran it over the deceased.

5. Learned counsel for the applicants submits that as per prosecution there were five persons sitting in the aforesaid tipper; three in front side and the other two in back side and thus, it is doubtful as to whether the alleged act of the applicants, who were sitting in the cabin, could be seen from the ground.

6. At the outset, undisputedly, the present applicants are neither the driver nor the owner of the tipper, which was carrying sand excavated illegally. There appears vague allegations that at the instigation of these applicants, the tipper was ran over the deceased, who was police constable, restricting illegal sand excavation.

7. From the affidavit-in-reply, the prosecution could not point out any criminal antecedent against the present applicants. The investigation is completed and the chargesheet is also filed. They are in jail since more than three months.

8. Given the aforesaid facts, this Court is of the opinion that no fruitful purpose would be served in keeping the applicants behind the bars. Hence, I proceed to pass the following order :-

ORDER

i) The Criminal Application is allowed.

ii) The applicants be released on bail in connection with Crime No.94/2020 dated 29/04/2020 registered at Police Station, Jalamb,

District Buldhana for the offences punishable under Sections 353, 302, 143 and 109 of the Indian Penal Code, Section 51(b) of the Disaster Management Act, 2005, Sections 2, 3 and 4 of the Epidemic Diseases Act, 1897 and Section 11 of the Maharashtra COVID-19 Regulations, 2020 on their furnishing PR bond in the sum of Rs.30,000/- each with one solvent surety each in the like amount.

iii) The applicants shall not in any manner tamper with the evidences.

9. Needless to say that the trial Court should not get influenced by the observations made above and shall decide the case on its own merits.

10. The Criminal Application is disposed of accordingly.

11. This order be communicated to the counsel appearing for the parties, either on the email address or on Whats app or by such other mode, as is permissible in law.

JUDGE

Sumit