

NAFR

HIGH COURT of CHHATTISGARH, BILASPUR**MCRCA No. 858 of 2021**

- Shakil Ahmad Rizvi, S/o late Peer Mohammad Rizvi, aged about 56 years, R/o Main Road, Geedam, District Dantewada, Chhattisgarh

-----Applicant**VERSUS**

- State of Chhattisgarh through: Police Station Kodenar, District Bastar, Chhattisgarh

-----Non-applicant

For Applicant : Mr. Manoj Pranjpe, Adv.

For Non-applicant- State : Mr. B.P. Banjare, Dy.Govt.Adv.

*(proceedings through video conferencing)***Hon'ble Shri Parth Prateem Sahu, Judge****ORDER****10/08/2021**

1. Applicant has preferred this application under Section 438 of CrPC for grant of anticipatory bail as he apprehends his arrest in connection with Crime No. 2/2021 registered at Police Station Kodenar, District- Bastar (C.G.) for the offence punishable under Sections 304A, 304 part II of IPC and Section 177 & 201 of Motor Vehicles Act, 1989.
2. As per the case of prosecution, on 17.01.2021, when the applicant was traveling in a car bearing registration no. CG21 F 7860 on Geedam main road, it met with an accident with one motor cycle. In the accident, driver of motor cycle came under the car and the car dragged him for about 50 meters due to which he died. Accident was reported to concerned police station by the applicant stating that he was driving a car, one bus bearing registration no. CG23 A 8828, while overtaking his car, knocked down the motor cycle due to which

driver of motor cycle came in front of car and thereby he came under the car. Based on the complaint, initially offence under Section 304A of IPC and Section 177 & 201 of Motor Vehicles Act was registered. During the course of investigation, based on the material collected, offence under Section 304 part II of IPC is also added.

3. Mr. Manoj Pranjpe, learned counsel for the applicant would submit that even if the case of prosecution is taken as it is that the accident of the driver of motor cycle was from his car and that too at the time of overtaking the bus on main road but there is no material available in the case diary with regard to ingredients of Section 304 part II of IPC. He submits that there is no allegation that accident was intentional by the present applicant to cause injury to the deceased, hence, Section 304 part II would not be attracted. He further submits that the other offence are bailable, hence, applicant may be enlarged on anticipatory bail.
4. On the other hand, Mr. B.P. Banjare, learned State counsel opposes the submissions made by learned counsel for the applicant and submits that the applicant has given wrong facts at the time of lodging of complaint before the police station. He submits that during the course of investigation, statement of wife of present applicant was recorded where she stated that present applicant was driving the car and the accident was occurred from the car driven by present applicant himself. However, upon putting specific query with regard to material collected by the police or any evidence to show whether the accident was intentional, learned State counsel submits that there is no such material available in the case diary regarding this, accident occurred when applicant was overtaking the bus on main road.

5. I have heard learned counsel for the respective parties.
6. Taking into consideration, the nature of allegation levelled against the present applicant, the manner in which the accident took place ie. while overtaking the bus by the car driven by present applicant, without commenting anything on merits of the case, I am inclined to allow the bail application.
7. Accordingly, application is allowed and it is directed that in the event of arrest of applicant in connection with the crime in question (02/2021), he shall be released on anticipatory bail by the Officer arresting him on his executing a personal bond in the sum of Rs. 25,000/- with one surety in the like sum to the satisfaction of the concerned arresting Officer. Applicant shall also abide by the following conditions:
 - (i) that the applicant shall make himself available for interrogation before the Investigation Officer as and when required;
 - (ii) that the applicant shall not, directly or indirectly, make any inducement, threat or promise to any person acquainted with the facts of the case so as to dissuade him/her from disclosing such facts to the Court or to any police officer;
 - (iii) that the applicant shall not act, in any manner, which will be prejudicial to fair and expeditious trial; and
 - (iv) that the applicant shall appear before the trial Court on each and every date given to him by the said Court till disposal of the trial.

Sd/-
(Parth Prateem Sahu)
 Judge