

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD**

926 BAIL APPLICATION NO.1346 OF 2021

**ABDLLA S/O. BIN AYADRUS ALJILANI @ CHAUS
VERSUS
THE STATE OF MAHARASHTRA**

...
Advocate for Applicant : Mr. Salunke Sudarshan J.
APP for Respondents/State : Mr. G.O. Wattamwar
...

**CORAM : M.G. SEWLIKAR, J.
DATE : 4th December, 2021**

PC.:-

Heard.

2. This is an application under Section 439 of the Cr.PC. for releasing the applicant on bail in connection with Crime No.381/2021.

3. Prosecution case is that applicant had gone to Masoli Dam along with his two girl friends by the name of Ashwini and Padmashri. Both Ashwini and Padmashri were sitting on the rear seat and after some time the informant sat on the front seat. Applicant was not driving the Scorpio properly. He was driving in high speed and in a zig zag manner, as a result of which he lost control over the vehicle and dashed against a Neem tree. Padmashri fell unconscious. Ashwini died in the accident. Padmashri lodged

the report on the basis of which offence under Section 279, 337, 338, 304 of the I.P.C. and under Section 3(1), 181, 184 of the Motor Vehicles Act came to be registered.

4. Learned counsel Shri Salunke submits that the offence ought to have been registered against the applicant u/s 304-A of the I.P.C., however offence under Section 304 of the I.P.C. has been registered. He submits that at the most applicant can be charged of rash and negligent driving and causing death of Ashwini not amounting to culpable homicide. Learned APP submits that the circumstances on record clearly show that offence under Section 304 is attracted.

5. In the FIR it is simply mentioned that the applicant was driving the Scorpio in high speed. In the statement under Section 164 of the Cr.P.C., witness Padmashri has stated that applicant was driving carelessly. Offence under Section 304 is not punishable with death or imprisonment for life. Applicant has no criminal antecedents. He will be available for trial and considering his age 19 years, he cannot be kept behind the bars for indefinite period. Moreover, trial is not likely to commence in the near future owing to circumstances created due to pandemic of Covid-19. In this view of the matter, I am inclined to release the applicant on bail. Hence the following order is passed:

ORDER

- I) Application is allowed.
- II) Applicant be released on PR bond of Rs.15,000/- with one solvent surety in the like amount, in connection with Crime No.381/2021 under Section 279, 337, 338, 304 of the I.P.C. and under Section 3(1), 181, 184 of the Motor Vehicles Act registered with Gangakhed Police Station, District Parbhani.
- III) These observations are made only for the disposal of this application and the learned trial Court shall not get influenced by these observations and can come to its independent conclusion during trial.

[M.G. SEWLIKAR, J.]