

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

Criminal Application (BA) No. 942 of 2021

[Dyanendra S/o Laxminarayan Gaur Patel ..vs.. State of Maharashtra through P.S.O., Kingaon Raja
P.S., Dist. Buldana]

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

Court's or Judge's orders

Mr. S. D. Dewani, Advocate for the applicant
Mrs. K. R. Deshpande, APP for the State/non-applicant

CORAM : ROHIT B. DEO, J.

DATED : 15-09-2021

The applicant is seeking bail in connection with Crime 229/2021 registered with Police Station, Kingaon Raja, District Buldana for the offences punishable under Sections 279, 337, 338, 304-A and 304 of the Indian Penal Code (IPC).

2. The prosecution case in brief is that the applicant is a labour contractor and had arranged transportation of labour by one tipper which was provided by the principal contractor. The tipper met with an accident. It turned turtle and 13 labours unfortunately lost their lives.

3. It appears that during the course of the investigation, the Investigating Officer invoked the

provisions of Section 304 of the IPC, the ingredients of which are either intent to cause death or knowledge that by a particular act, death will be caused.

4. I perused the case diary and it is difficult to agree, *prima facie*, with the invoking of Section 304 of the IPC.

5. From the facts which are culled out by the learned Sessions Judge in the order of rejection of bail, it appears that the fact that the tipper was provided by the principal contractor only to transport construction material and not to ferry workers is considered to be a circumstance justifying invoking Section 304. It is difficult to agree. While the applicant may have used a tipper to ferry the workers, it is difficult to *prima facie* hold that he did it with the intent to cause death or with knowledge that death may be caused can be attributed.

6. In any event, investigation appears to be virtually complete and there is no reason for the applicant should languish in jail custody, as if suffering a pre-trial punishment.

7. The application is allowed.

8. The applicant be released on furnishing PR bond of ₹ 16,000/- (Rupees Sixteen Thousand) with solvent surety of like amount on following conditions.

(a) The applicant shall not tamper with the evidence or make any attempt to influence the witnesses, directly or indirectly.

(b) The applicant shall not leave the country without the permission of the jurisdictional Court.

JUDGE

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