

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

38 BAIL APPLICATION NO.41 OF 2022

Ramesh s/o Tukaram Hake ...Applicant

Versus

The State of Maharashtra ...Respondent

...
Advocate for Applicant : Shri P. P. More
APP for Respondent – State : Shri S. B. Narwade
...

CORAM : M. G. SEWLIKAR, J.

DATED : 31-01-2022

PER COURT :-

1. This is an application under Section 439 of the Code of Criminal Procedure for the enlargement of the applicant on bail in connection with Crime No. 148/2021 registered with Naldurga Police Station, District Osmanabad, under Section 302 read with 34 of the Indian Penal Code.

2. It is the case of the prosecution that the deceased was the husband of Balika. Balika is the sister of the applicant. The relations between deceased and Balika became strained. There was a marital discord between the deceased and Balika. Therefore, applicant had taken back Balika. Balika was brought

back to her matrimonial home.

3. It is alleged in the FIR that on 5th May, 2021, again there was a quarrel between Balika and the deceased Sidhu. At 3.00 p.m. applicant Nos. 1 and 2 came to her matrimonial place by Pick-up Van bearing No. MH-13 AN 4239 and took back Balika at about 3.15 to 3.30 p.m. At about 300 ft., the informant who is the father of the deceased along with the deceased was waiting to convince the applicant and the other accused. The deceased had put stones on the road to stop the Pick-Up Van. Informant and the deceased were signalling the Pick-Up van to stop but the applicant who was driving the Pick-Up Van did not pay any heed and gave dash to the deceased. Deceased was taken to the Hospital. During treatment he succumbed to the injuries.

4. Learned counsel Shri More submits that the sequence of events clearly show that the applicant had no intention to kill the deceased. He submits that the deceased and his father had put the stones on road to stop the Pick-Up Van. He submits that it was purely a case of accident. He submits that the sequence of events clearly show that the applicant had no intention to kill the deceased. At the most it can be said that he had the knowledge that his act would cause the death of the deceased. Therefore, the offence would fall within the provisions of Section

304-B of the Indian Penal Code.

5. Charge-sheet is filed. Applicant was driving the Pick-up Van. The marital relations between the deceased Sidhu and Balika were strained. They were not getting along well with each other. Therefore, applicant and other accused had come to take her back. They took her back and they were returning in the Pick-up Van. The deceased Sidhu and his father were trying to stop the applicant and other accused. They were signalling the applicant and other accused to stop the Pick-up Van. But the applicant who was driving the Pick-up Van at that time did not pay any heed to his signals and gave dash to the deceased Sidhu. This sequence of events, by no stretch of imagination, indicate that it was an accident. As indicated earlier the applicant did not lower the speed, he did not stop the Pick-Up Van and continued to drive in the same speed. As a result of which he gave dash to the deceased Sidhu on account of which he lost his life. It is pertinent to note that the deceased was the husband of the sister of the applicant. Despite giving dash he did not stop the Pick-Up Van nor did he report to the Police Station and simply fled from the spot. Learned counsel Shri More submits that the applicant did not stop to avoid crowd fury. Even if this argument is accepted, the question remains unanswered as to why he did not report to the Police Station.

Moreover, the act itself was so imminently dangerous that the applicant knew that in all probability he would cause the death of the deceased. This action of the applicant falls in Section 300 of the Indian Penal Code. Section 300 of IPC reads thus :

300. Murder – *Except in the cases hereinafter excepted, culpable homicide is murder, if the act by which the death is caused is done with the intention of causing death, or*
2ndly.-- If it is done with the intention of causing such bodily injury as the offender knows to be likely to cause the death of the person to whom the harm is caused, or
3rdly.-- If it is done with the intention of causing bodily injury to any person and the bodily injury intended to be inflicted is sufficient in the ordinary course of nature to cause death, or
4thly.-- If the person committing the act knows that it is so imminently dangerous that it must, in all probability, cause death or such bodily injury as is likely to cause death, and commits such act without any excuse for incurring the risk of causing death or such injury as aforesaid."

Clause 3rdly and 4thly of Section 300 covers the action of the applicant. Any man of ordinary prudence knows that if the dash of a vehicle is given, in all probability it would cause death

or such bodily injury as is likely to cause death.

6. In this view of the matter, I am not inclined to release the applicant on bail. Hence, the order :-

ORDER

Application is rejected.

[M.G. SEWLIKAR, J.]

shp/-