

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

ANTICIPATORY BAIL APPLICATION NO.416 OF 2022

JAIRAM SOMLA RATHOD

VERSUS

THE STATE OF MAHARASHTRA

...

Mr. Shaikh Ashraf Patel, Advocate for the applicant

Mr. B.V. Virdhe, APP for the respondent

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CORAM : SMT. VIBHA KANKANWADI, J.

DATE : 06th APRIL, 2022

ORDER :

1 Present applicant is a Police Head Constable attached to Anand Nagar Police Station, Osmanabad. He is apprehending his arrest in connection with Crime No.35/2022 dated 22.02.2022 registered with Tamalwadi Police Station, Tq. Tuljapur, Dist. Osmanabad, for the offence punishable under Section 166, 166-A, 167, 196, 202, 203, 209, 406, 418, 463, 464, 465, 468, 471, 120-B read with Section 34 of the Indian Penal Code, 1860.

2 Heard learned Advocate Mr. Shaikh Ashraf Patel for the applicant

and learned APP Mr. B.V. Virdhe for the respondent.

3 Learned Advocate appearing for the applicant has tried to demonstrate as to how the custodial interrogation is not required. It is also then stated that as per Section 197 of the Code of Criminal Procedure he should be protected, as he is a Government servant. He has not prepared any false or bogus document to file claim petition before Motor Accident Claims Tribunal. He has been falsely involved in the crime.

4 Learned APP strongly opposes the application for grant of any interim relief on the ground that the matter is coming for the first time and he is yet to receive the papers. Contents of the First Information Report shows active involvement of the present applicant.

5 It is to be noted that the First Information Report has been lodged by Deputy Superintendent of Police, Crime Investigation Department, Osmanabad Mr. Ajit Tukaram Chintle. As per order passed by this Court in Public Interest Litigation No.3 of 2020 a committee was formed for investigation of false motor accident claims through CID, State of Maharashtra. According to informant, Motor Accident Claim Petition No.25/2020 connected to Tamalwadi Police Station in Crime No.4/2020 under Section 279, 338, 304-A of the Indian Penal Code in respect of death of

one Mahadu Laxman Ghodke was given for investigation. After the inquiry was carried out, it was revealed that he himself had caused the said accident. He had not taken note of the condition of the road and by rashly and negligently driving his own Tractor, which then turtled, he got trapped below the Tractor and was taken to Solapur by Ambulance. In the First Information Report it is stated that the witness who was present at the spot had contacted Police Patil as well as Police Head Constable Jairam Rathod i.e. present applicant, who was the Bit Amaldar and he had also forwarded the photographs of the accident on mobile on their WhatsApp, before the injured could be shifted to Solapur. After the injured was taken to Civil Hospital, Solapur he was declared dead. It is then stated that in the Police Chowky attached to Hospital PHC Mangesh Dhaku Chavan and his colleague PC Abhijeet Amar Gaikwad took entry regarding the same in MLC register. PHC Chavan prepared Inquest Panchnama in the Police Station, which was carried out by Dr. Pooja Jadhav. The cause of death was stated as - "Shock and Hemorrhage due to injuries to vital Organs". It is then stated that the funeral was performed on 18.12.2019. On 19.12.2019 Advocate Mr. Vijay Laxman Patil went to the house of deceased and made inquiry about the accident with the relatives of the deceased. He also asked about the details of Tractor and licence of the deceased. The relatives told him that the Tractor was new which was in the name of deceased himself and due to his own reasons it

turtled. He was also not holding licence. After getting this information, the concerned Advocate told that it will not be befitting within the parameters of filing a Motor Accident Claim Petition but then for that purpose some other Tractor and driver holding licence will have to be shown. He assured that he would manage everything including police, but the relatives will have to pay 20-25% of the commission of the accident compensation. Thereafter, nephew of the deceased gave his own Tractor number and then the whitener was applied on the Medico Legal Certificate prepared by PHC Chavan and PC Gaikwad and the Tractor number of the nephew of the deceased was shown to be involved. That change was also made in the Inquest Panchnama. Panchas were again called and then their signatures were taken. The story was rebuilt and the wife of the deceased lodged the report on 08.01.2020 by including two persons as eye witnesses. The investigation was accordingly done and charge sheet was filed. In the inquiry, after the order in Public Interest Litigation No.3 of 2020 was filed, all these things have been revealed and, therefore, offence has been lodged.

6 It will not be out of place to mention here that filing of such false cases are increasing. It is only with an intention to get more compensation. Note of such cases has also been taken by Hon'ble Supreme Court. This Court also taking into consideration the increase in such false cases had

passed the said order in the Public Interest Litigation. In the application itself the present applicant has stated that he had made the investigation of the accident case and had filed the charge sheet. When it could be revealed that he had already received the accident photographs on his WhatsApp mobile, still how he can go with the story that was later on stated by the wife of the deceased, is a question. She was admittedly not present when the alleged accident had taken place. Further, the accident had taken place on 17.12.2019. At that time, even the registration of that Tractor was not complete and it was completed only on 19.12.2019. The First Information Report came to be lodged on 08.01.2020. Sometimes delay speaks for itself. Though the matter is coming for the first time, it can be seen that the learned Additional Sessions Judge, Osmanabad while rejecting the application of the present applicant had considered the statements of witnesses, which were allegedly recorded. It is stated that statements of Kashinath Jeure, Dilip Karke, Datta Chavan and Pandit Umarje show that the deceased expired while driving his own Tractor, which was without RTO registration and also it is stated that the deceased was not holding licence. Therefore, there appears to be prima facie evidence against the present applicant.

7 The point of Section 197 of the Code of Criminal Procedure has been raised. At the most, it can be said that there will not be arrest till the

sanction is obtained or cognizance will not be taken by the concerned Court. But that cannot be the point only upon which such dishonest persons should be protected. The application deserves to be rejected at the threshold. Accordingly, it is rejected.

(Smt. Vibha Kankanwadi, J.)

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