

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

BAIL APPLICATION NO.1951 OF 2023

PRADEEP CHABURAO RATHOD
VERSUS
THE STATE OF MAHARASHTRA

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Advocate for Applicant : Mr. N.S. Ghanekar
APP for Respondent : Mr. S.P. Deshmukh

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WITH
BAIL APPLICATION NO.1961 OF 2023

NITINKUMAR SIDHARTH GONARKAR
VERSUS
THE STATE OF MAHARASHTRA.

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Advocate for Applicant : Mr. R.S. Deshmukh Senior Counsel
a/w Mr. V. A. Chavan i/b Mr. M. G. Naik
APP for Respondent : Mr. S.P. Deshmukh

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CORAM : S. G. CHAPALGAONKAR, J.

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Reserved on : 7th November, 2023
Pronounced on : 9th November, 2023.

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ORDER :-

1. The applicants in both these bail applications are seeking regular bail in connection with Crime No.0548 of 2023 registered with Vaijapur police station, District Aurangabad Rural for the offences punishable under sections 304(2), 308, 337, 338, 427, r/w 34 of the Indian Penal Code.

2. Investigation has been set in motion on the basis of information given by one Kamlesh Dagdu Mhaske stating that

aaa/-

on 14.10.2023 at about 9 pm his family members and friends had blessings of Sailani Baba and started journey towards Nashik in Tempo Traveller bearing registration no.MH-04/GP-2212. They took dinner at Bhokardan and in furtherance of their journey, entered Samruddhi High Way from Savangi pass of Chhatrapati Sambhajanagar. On 15.10.2023 at about 00.45 hours the vehicle passed Hadasimpalgaon Toll Booth. It was driven in moderate speed from the middle lane of speed limit of 80 kms. A truck was proceeding ahead from the lane of speed limit 120 kms. After traveling some distance, R.T.O. officers were seen on side margin of the road and they signaled the Truck driver to take off the vehicle from the road. The truck driver, without looking to the vehicles following the truck, suddenly changed his line and came across the tempo, which forcibly dashed on rear side of the truck. Resultantly, passengers in the Tempo sustained severe injuries. Out of 35 passengers boarded in the tempo, 12 have lost life and 23 suffered injuries. Accordingly, aforesaid crime has been registered. The applicants, who are the officers of Transport Department under State of Maharashtra have been arrested on 15.10.2023. Since then, they are behind the bar.

3. Learned advocates appearing for the respective applicants vehemently submit that the applicants have been falsely implicated in the aforesaid crime. They were entrusted with the task of enforcing the provisions of the Motor Vehicles Act and Rules. They were discharging their duties as per rules and guidelines in terms of the duties assigned to post of

Inspectors under section 213 of the Motor Vehicles Act. It is submitted that the accident in question has been occurred due to sheer negligence on the part of the vehicle drivers. The truck driver has suddenly changed lane on the high speed high way without looking to the vehicles following; so also the tempo driver failed to maintain safe distance in terms of the Motor Vehicle Regulations.

4. Mr. Rajendra Deshmukh, learned senior counsel alongwith advocate Mr. Chavan i/b Mr. Naik appearing for the applicant in B.A No.1961 of 2023 submitted that as per the instructions dated 28.9.2023 the applicants and other officers were discharging their duties of training and guiding the vehicle drivers so as to avoid the accidents. Learned senior counsel invites attention of this Court to the report of inquiry submitted by Technical Committee appointed in pursuance of the subject accident, which clearly depicts that negligence on part of vehicle drivers was the sole cause of the accident and allegations against the applicants/RTO officers are baseless. He would submit that when the Patrolling officers noted that the truck driver was frequently changing the lane, he was signaled to park the vehicle at the secured place. Therefore, no offence could have been invoked against the applicants, who discharged their duties in terms of the provisions of the Motor Vehicles Act, Rules and Regulations. Learned Senior counsel would further submit that the applicants are behind bar for more than three weeks. Investigation in the matter is almost

complete. Further detention of the applicants is not necessary. As such, they urge to release the applicants on bail.

5. Learned A.P.P. strongly opposes the prayers for grant of bail. He would invite attention of this Court to police statement of Digambar Nivrutti Bhosale, who was employed as driver on RTO Jeep bearing registration No.MH-20/GC-3338, who states that a truck was seen proceeding from Verul towards Vaijapur and suddenly he changed his line. Then, the Tempo dashed on rear side of the truck. Thereafter, R.T.O. officers ran towards the place of the accident. Another statement of cleaner of offending truck is recorded, who states that, the officers of R.T.O. signaled from their vehicle to stop the truck. Thereafter, at the distance of 200 meters, the truck has been parked in the left side line. Suddenly, tempo dashed on rear side of the truck. Statement of the tempo driver is also recorded, which suggests that because the Transport Officers signaled the truck driver to stop his vehicle, he suddenly changed the line and came across the tempo. As such, according to the learned APP, the applicants are responsible for the accident and offence under section 308 of the IPC has been rightly invoked against them.

6. Having considered the submissions advanced, apparently, this matter pertains to most unfortunate incident, which took Toll of 12 life and injured 23 occupants of the Tempo. However, the question posed before this Court is as to “Whether prima facie, the applicants/R.T.O. officers can be

held responsible any way for cause of such accident, more particularly, whether further detention would be necessary.?”

7. Apparently, the accident occurred between the offending tempo, which was carrying 35 passengers and a truck. Perusal of the spot panchanama depicts that the spot of the accident is on extreme left side of the Samruddhi High Way running in East-West direction. Tyre marks are seen on rear side of the Truck up to the distance of 40 feet. Out of the four lanes available on the road, first lane permits overtaking, second lane permits speed limit up to 120 kilometers, third lane permits speed limit of 80 kilometers and last lane is for accident parking. The spot of the accident is on 80 kms speed limit lane. In this scenario, even for the sake of arguments, it is accepted that the R.T.O. officers signaled the truck for taking the vehicle off the road, it is difficult to hold that they had any intention or knowledge to commit an act amounting to culpable homicide. In such an eventuality, the vehicle driver was responsible to watch the vehicles following him before change of line/lane. If the truck driver has abruptly changed line even for obeying the signal of the Transport Officers, he cannot escape from his duty to take reasonable care and secure safe parking without interrupting other vehicles passing from the road. However, all these aspects can be looked into during the trial. Apparently, alleged offences are triable by the Magistrate, punishable with imprisonment up to seven years. The applicants are the Government servants. They are behind bar for more than three weeks. Investigation so far as their

role is concerned, appears to have been completed. Their further detention is not necessary. In that view of the matter, case is made out for grant of bail. Hence, the order.

ORDER

- i. Bail Applications are hereby allowed.
- ii. The applicant - Pradip Chaburao Rathod in Bail Application No.1951 of 2023 and applicant Nitinkumar s/o. Sidharth Gonarkar in Bail application No.1961 of 2023 be released on bail in connection with Crime No.0548 of 2023 registered with Vaijapur police station, District Aurangabad for the offences punishable under sections 304(II), 308, 337, 338, 427, r/w 34 of the Indian Penal Code on their furnishing P.B. & S.B. of Rs.50,000/- (Rs.Fifty Thousand) by each of them, on the following conditions :-
 - a] The applicants shall not tamper with the prosecution evidence.
 - b] The applicants shall co-operate with the investigation and attend the concerned police station once in a week i.e. on every Saturday between 10 am to 2 pm till filing of the charge sheet.
- iii. Bail applications are accordingly disposed off.

(S.G. CHAPALGAONKAR)
JUDGE

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