

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY  
CRIMINAL APPELLATE JURISDICTION**

**BAIL APPLICATION NO.2582 OF 2022**

Bharat Shamji Patel

...Applicant

Versus

The State of Maharashtra and Anr.

...Respondents

...

Mr. Sushil M. Gaglani for the Applicant.

Mr. S.H. Yadav, APP for the Respondent -State.

Mr. C.D. Dalvi, PSI, Malad Police Station, Mumbai, present.

**CORAM: SMT. ANUJA PRABHUDESSAI, J.**

**DATED : 4<sup>th</sup> AUGUST, 2023.**

**P. C. :-**

1. By this application under Section 439 of the Cr.P.C.the aforesaid Applicant, who is facing trial in Sessions Case No.427 of 2022, pending on the file of learned Sessions Judge, Dindoshi, Mumbai, seeks enlargement on bail. The said case arises from C.R. No.671 of 2022 registered with Malad Police Station, Mumbai, for the offences punishable under Sections 288 and 304 r/w 34 of the IPC.

2. Heard Mr. Sushil Gaglani, learned counsel for the Applicant and Mr. S.H. Yadav, learned APP for the Respondent -State. I have perused the records and considered the submissions advanced by the learned counsel for the respective parties.

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3. The aforesaid crime was registered pursuant to the FIR lodged by one Nitin Narsibhai Waria. On 19/05/2022 while Rajkumar Sonil, the employee of the First Informant had gone to answer nature's call, the top floor of the building, which was under construction caved in resulting in death of Rajkumar Soni, Hence, the FIR.

4. It is stated that the Applicant was one of the contractors. Learned counsel for the Applicant states that the Applicant had quit the work prior to one month of the incident and accused No.1 was appointed as a contractor. Be that as it may, it cannot be said at this stage that the Applicant had knowledge that the building would collapse and result in casualties. The essential ingredients of offence under Section 304 of the IPC are prima face lacking.

5. The Applicant is in custody since 21/05/2022. Investigation has been completed and charge-sheet has been filed. The charge is not yet framed and considering the large pendency, the trial is not likely to conclude within a reasonable time.

6. Under the circumstances, the application is allowed on the following terms and conditions:-

(i) The Applicant, who is facing trial in Sessions

Case No.427 of 2022, arising from C.R. No. 671 of 2022 registered with Malad Police Station, Mumbai, is ordered to be released on bail on executing PR bonds in the sum of Rs.50,000/- with one or two sureties in the like amount.

- (ii) The Applicant shall report to the concerned police Station, once in three months on the first Monday of the month.
- (iii) The Applicant shall not tamper with the prosecution evidence and or influence the witnesses in any manner;
- (iv) The Applicant shall co-operate with the conduct of the trial and attend the trial Court on all dates, unless exempted.
- (v) The Applicant shall keep the Trial Court informed of his current address and mobile contact numbers and/or change of residence or mobile details, if any, from time to time;

7. The application stands disposed of.

**(SMT. ANUJA PRABHUDESSAI, J.)**