

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
BAIL APPLICATION NO.3194 OF 2022**

Jayesh Ravindra NerlekarApplicant

Versus

The State of Maharashtra ...Respondent

Mr. Jehangir Khajotia, Advocate for the Applicant.

Mr. Y. Y. Dabke, APP for Respondent-State.

Mr. Bhembare, PSI, Manpada Police Station.

CORAM : SHIVKUMAR DIGE, J.

DATE : 7th SEPTEMBER, 2023.

P.C. :

1. By this application, applicant is seeking bail in C.R.No.1-388 of 2022 registered with Manpada Police Station, Thane, for offences punishable under Sections 304 and 279 of Indian Penal Code (for short "IPC") and Sections 148, 185, 181(3) of Motor Vehicles Act.

2. It is prosecution's case that deceased - Prashant was son of the first informant. On 20th May 2022 around 5.00 p.m., deceased - Prashant and his friends were playing cricket at Sawalaram Krida

Sankul. At that time, all of a sudden, one Maruti Suzuki Wagon R car bearing No. MH-05-EQ-4112 had come there in high speed and due to rash and negligent driving of driver of the said car, it gave dash to the deceased and went over him. In the said incident, deceased sustained multiple injuries. He was taken to the hospital but he succumbed to the injuries.

3. It is the prosecution's case that applicant was driving the said car rashly and negligently having knowledge that driving vehicle in such manner on a playground is likely to endanger the lives of those playing there and thus was responsible for the death of the deceased.

4. It is contention of learned counsel for applicant that initially offence under Section 304A and 279 of IPC was lodged against the applicant. It was alleged that applicant was under the influence of liquor at the time of incident hence offence under Section 304 of IPC was added. Learned counsel further submitted that chemical analysis report shows that applicant was not under influence of alcohol. Applicant is behind bar for more than one year and three months. Investigation is completed, charge-sheet has been filed. Hence, requested to allow the application.

5. Learned APP submitted that applicant was driving car in the stadium where the boys were playing. He was aware that driving car in stadium would cause accident, in spite of that he drove the car rashly and negligently and gave dash to deceased. It shows prima facie case against the applicant. At the time of incident, applicant was under the influence of alcohol. There are statements of witnesses which shows that applicant drove the vehicle rashly and negligently. Hence, requested to reject the application.

6. I have heard both learned counsel, perused the F.I.R and charge-sheet. It is alleged that at the time of accident, applicant was under influence of liquor. The chemical analysis report is at page 50 of charge-sheet. This report shows that applicant was not under influence of alcohol. The investigation is completed, charge-sheet has been filed. Applicant is behind bar for more than one year.

Considering the above facts, no further detention of applicant is required.

7. In view of above, I pass following order :

ORDER

(i) Applicant be enlarged on bail in C.R.No.1-388 of 2022 registered with Manpada Police Station, Thane, on

executing P.R.Bond in the sum of Rs.25,000/- with one or two sureties in the like amount.

(ii) Applicant shall attend the concerned police station once in a month i.e. on first Monday between 11.00 a.m. to 3.00 p.m. till framing of charge.

(iii) Applicant shall inform his latest place of residence and mobile number immediately after being released and/or change of residence or mobile details, if any, from time to time to the Investigating Officer.

(iv) Applicant shall not tamper with the evidence or attempt to influence or contact the complainant, witnesses or any person concerned with the case.

8. The application is allowed in the aforesaid terms and is accordingly disposed of.

9. All concerned to act on the authenticated copy of this order.

(SHIVKUMAR DIGE, J.)