

IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CRIMINAL APPELLATE JURISDICTION

CRIMINAL BAIL APPLICATION NO. 3617 OF 2022

Ninad Mahendra Mhatre

... Applicant

V/s.

State of Maharashtra

... Respondent

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Advocate D.N.Salvi a/w. Sahil D. Salvi and Mr. Narendra Kalpoth for Applicant.

Ms. Anamika Malhotra, APP for Respondent-State.

API – Suryawanshi, Manpada Police Station, Dombivali (E) present.

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CORAM : SHIVKUMAR DIGE, J.

DATE : 25th SEPTEMBER 2023

P. C:-

1. By this Application, Applicant is seeking bail in C.R.No. 497 of 2020 registered with Manpada police Station, Dombivali for the offence punishable under Sections 109, 143, 147, 302, 323, 504 read with 149 Indian Penal Code, 1860 (for short “IPC”).

2. It is prosecution’s case that on 07.12.2020 at around 1.20 p.m., first informant along with his friend Shashank Mahajan (deceased) had gone to Kailas Dhaba for drinking alcohol and eating food. Both of them were sitting on the table in the open ground of that Dhaba. Adjoining the table of first informant, 5 to 6 persons

had occupied another table and they were also drinking and eating food. Because of consumption of alcohol, first informant was required to go outside the Dhaba for urination, at that time he was carrying the bottle of alcohol with him. While the first informant was returning back to his table, one of the occupants of adjoining table gave a snap on his hand, due to which the bottle which was in the hand of the first informant fell down leading to a verbal spat between the first informant, his friend and the occupants of adjoining table. After intervention by the hotel waiters and the hotel manager, the quarrel was settled. It is alleged that, at around 2 a.m. the first informant and Shashank (deceased) left the hotel to return to their respective homes. While waiting for the Ola Cab booked by the first informant, they were walking on the road. While walking on the road, they saw one car was approaching them. First informant and deceased believed that the approaching car was Ola Cab for which they were waiting for. It is alleged that, when that car came closed to them first informant and deceased realised that the car was occupied by the same persons who were sitting on the adjoining table. It is alleged that, they got out of the car and started abusing, threatening and assaulting the first informant and the deceased. It is alleged that the first informant tried to re-assure the

accused persons however they were not in mood to understand and they started assaulting the first informant and deceased with fist and blows. After assaulting the accused persons sat in the car, tried to flew away from the incident spot, at that time, the car hit the deceased, he fell on the ground and sustained injuries on his head and body. He was admitted in the hospital, doctor declared him dead.

3. Initially, police registered a case under Sections 304(A), 279, 337 and 338 of IPC and Section 134(B), 184 of the Motor Vehicles Act. Later on upon supplementary statement of first informant, Section 302, 143, 147 and 149 of IPC came to be added. In investigation, police arrested Applicant and co-accused in connection of this crime.

4. It is the contention of learned Counsel for the Applicant that, Applicant has been falsely implicated in this case. The death of deceased was caused due to sudden quarrel. There was no intention or motive behind the said crime. The complainant and deceased were under the influence of liquor. While fleeing away from the spot, the car hit the deceased and the deceased fell on the ground. The dash was not given intentionally. Applicant is behind the bar

more than two years. Investigation is completed and charge-sheet has been filed. Hence, requested to allow the application.

5. Learned APP submitted that, Applicant and co-accused had assaulted the deceased with fist and blows, thereafter the car which gave the dash to the deceased, the Applicant was driving the said car. Applicant intentionally gave dash to the deceased. It shows his involvement in the crime. Hence, requested to reject the application.

6. I have heard both the learned Counsel. Perused the FIR and charge-sheet. Initially, FIR was lodged under Section 304(A) of IPC and under Motor Vehicles Act. The supplementary statement of first informant was recorded. Thereafter Section 302 of IPC was added. The co-accused have been released on bail. It appears from record that incident was happened in sudden quarrel Investigation is completed, charge-sheet has been filed. In complaint it is alleged that while fleeing away from the spot, the car gave dash to the deceased. It is alleged that Applicant was driving the said car. Applicant is behind the bare more than two years, yet trial has not been started. It may take time to conclude the trial. Considering the above facts, further detention of the Applicant is not required.

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

ORDER

- (i) Applicant be enlarged on bail in C.R.No. 497 of 2020 registered with Manpada police Station, Dombivali 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 of the month 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.
 - (v) The Trial Court shall decide the said case on its own merits, in accordance with law uninfluenced by the observations made in this order.
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.)

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