

IN THE HIGH COURT OF JUDICATURE AT BOMBAY**NAGPUR BENCH : NAGPUR****CRIMINAL APPLICATION (BA) NO. 189/2023**

Jitesh s/o Gopal Virani .vs. State of Maharashtra, through PSO P.S. Chandrapur
City, Tq. Dist. Chandrapur

Office Notes, Office Memoranda of Coram,
appearances, Court's orders of directions
and Registrar's orders

Court's or Judge's orders

Mr. Sunil Manohar, Senior Advocate assisted by Mr. P.R. Agrawal,
Advocate for the applicant.

Mr. A. M. Kadukar, A.P.P. for non applicant – State.

Mr. R. R. Vyas, Advocate for informant.

CORAM : ANIL L. PANSARE, J.

DATE : MARCH 3, 2023.

Criminal Application (APPP) No.406/2023

Heard.

By present application, the mother of the deceased
seeks permission to assist the prosecution.

For the reasons set out in the application, the
application is allowed. The applicant is permitted to assist the
prosecution.

The application is disposed of.

Criminal Application (BA) No.189/2023

This is an application under Section 439 of the Code of
Criminal, 1973. The applicant has been arrested on 06.02.2023
in Crime No.79/2023, registered with Police Station, Chandrapur
City, for the offence punishable under Section 304 read with
Section 34 of the Indian Penal Code, 1860.

2. I have heard both the sides. Having gone through the
material placed before me, what transpires is that in the
intervening night of 04.02.2023 and 05.02.2023, victim of the
crime, Umang Dahiwal, came out of bar named and styled as

“N. D. Hotel”, and was sitting near the exit gate of Raghuwanshi complex. At about 01:37 A.M. one car bearing No. MH-34/AM-4316 gave a dash to Umang and drove over him. Umang got stuck beneath the car and therefore the car driver, accused no.1, removed him and fled away. It is said that somehow, the deceased managed to get up and was sitting again. Thereafter, followed the next car bearing registration No.MH-46/P-2477. This car was being driven by the applicant. He again mowed down Umang at about 02:12 A.M. Unfortunate Umang succumbed to the injuries caused by both the accidents.

3. Learned A.P.P so also the learned counsel for the informant have opposed the application on the ground that Umang was sitting at the place, which was visible to the driver i.e. the applicant. CCTV footage would clearly demonstrate that the applicant could have avoided the accident. Nonetheless, it is nobody's case that either the earlier driver, accused no.1 or the later, accused no.2 - present applicant have any intention or have intentionally caused the accident.

4. The investigation is in progress. Nothing is to be recovered from the applicant. When inquired, there are no criminal antecedents. The applicant owns immovable property in Chandrapur. Thus, he has a strong roots in the locality. In the circumstances and considering the nature of evidence, no fruitful purpose will be served by keeping the applicant behind the bars. Interest of the prosecution can be secured by putting the applicant to appropriate terms.

5. The observations made in this order are prima facie in nature and are made for deciding the present application only.

6. Resultantly, following order is passed.

ORDER

- (i) The application is allowed.
- (ii) Applicant – Jitesh s/o Gopal Virani, be released on bail in Crime No.79/2023, registered with Police Station, Chandrapur City, for the offence punishable under Section 304 read with Section 34 of the Indian Penal Code on he executing P.R. Bond in the sum of Rs.25,000/- with one surety in the like amount.
- (iii) The applicant shall attend concerned Police Station, as and when directed by the investigating officer, till filing of the charge-sheet.
- (iv) The applicant shall, at the time of execution of bond, furnish his address and telephone/mobile number(s) to the Investigating Officer and the Court concerned and shall not change the same till the final disposal of the case.
- (v) The applicant shall not directly or indirectly make any inducement, threat or promise to any witness acquainted with the facts of the case so as to dissuade him/her from disclosing such facts to the Court or any Police Officer.
- (vi) The applicant shall not obstruct or hamper the police investigation and shall not play mischief with the evidence collected or yet to be collected by the Police.
- (vii) The applicant shall maintain law and order.
- (viii) In case of breach of any conditions, the learned trial court is at liberty to cancel the bail after giving opportunity of hearing to both the sides.

The application is disposed of in the above terms.