

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

BAIL APPLICATION NO. 3060 OF 2023

Abhishek Samual Messi .Applicant

Versus

The State of Maharashtra .Respondent

WITH
INTERIM APPLICATION NO. 859 OF 2024
IN
BAIL APPLICATION NO. 3060 OF 2023

Yogesh Dnyaneshwar Bongale .Intervenor

IN THE MATTER OF

Abhishek Samual Messi .Applicant

Versus

The State of Maharashtra .Respondent

Mr. Rajesh L. Dharap, Advocate, for the Applicant.
Mr. P. D. Deokar, APP, for the Respondent – State.
Ms. Sejal A. Hariyan i/b. P. Padmanabh & Associates, Advocate, for
the Intervenor.

CORAM: MADHAV J. JAMDAR, J.

DATE: 22.04.2024

P. C.

1. Heard Mr. Dharap, learned Counsel for the Applicant, Mr. Deokar, learned APP for the Respondent - State and Ms. Hariyan, learned counsel for the Intervenor.

2. This regular Bail Application is preferred under Section 439 of the *Code of Criminal Procedure, 1973*. The relevant details are as follows:-

1.	C. R. No.	429 of 2022
2.	Date of registration of F.I.R.	28.08.2022
3.	Name of Police Station	Vijapur Naka, Solapur
4.	Sections invoked	304(ii), 201 r/w. 34 of the I.P.C., 1860; 134 & 184 of the Motor Vehicles Act, 1954.
5.	Date of incident	14.07.2022
6.	Date of arrest	28.08.2022
7.	Date of filing of Charge-sheet	25.11.2022

3. As per the prosecution case, the incident in question took place between 11.30 p.m. and 00.30 a.m. on the intervening night of 14.07.2022 and 15.07.2022. As per the prosecution case, the Applicant, under the influence of alcohol, drove a Mahindra Scorpio vehicle and crashed into the two-wheeler which the deceased-Shreyas was riding on the Highway opposite Verna Hotel.

4. It is the submission of Mr. Dharap, learned Counsel for the Applicant that the incident in question has taken place on 14.07.2022 and accordingly, on suspicion, the Applicant was arrested on 28.08.2022. He submitted that there are no circumstances to indicate that the said Scorpio vehicle which the Applicant was driving was involved in the offence in question. He submitted that in fact, the deceased-Shreyas was also riding his two-wheeler under the influence of alcohol. He submitted that there are no antecedents. He further submitted that two co-accused have already been released on bail.

5. Mr. Deokar, learned APP for the Respondent-State and Ms. Hariyan, learned Counsel for the Intervenor submitted that the Applicant was driving the Scorpio vehicle under the influence of alcohol. He was not having any valid driving license. Therefore, the Bail Application of the Applicant be rejected.

6. Ms. Hariyan, learned Counsel for the Intervenor pointed out the statement of Mr. Nagesh Chandrakant Jadhav (Page No. 105 of the Charge-sheet) and submitted that involvement of the Applicant in the incident in question can be seen from the said statement.

7. A perusal of the record shows that the incident in question has taken place between 11.30 p.m. and 00.30 a.m. on the intervening night of 14.07.2022 and 15.07.2022. Earlier case was registered as ADR Case No. 74/2022 on 15.07.2022. The Applicant was arrested on 28.08.2022. The Charge-sheet was filed on 25.11.2022. As per the Charge-sheet, there are about 61 witnesses proposed to be examined by the prosecution. Till date, charge is framed and 14 witnesses have been examined by the prosecution. The trial is unlikely to conclude any time soon and is likely to take a considerably long time.

8. The Applicant is a young man aged 28 years.

9. The factual position on record shows that half of the road was under construction and the traffic was flowing on the other half of the road. Prima facie, there is no strong evidence to show that the

vehicle which the Applicant was driving was involved in the offence in question.

10. The Applicant does not have any criminal antecedents.
11. The Applicant does not appear to be at risk of flight.
12. Accordingly, the Applicant can be enlarged on bail by imposing conditions.
13. In view thereof, the following order:-

ORDER

(a) The Applicant - Abhishek Samual Messi be released on bail in connection with C. R. No.429 of 2022 registered with the Vijapur Naka Police Station, Solapur on his furnishing P. R. Bond of Rs.25,000/- with one or two local solvent sureties in the like amount.

(b) On being released on bail, the Applicant shall furnish his cell phone number and residential address to the Investigating Officer and shall keep the same updated, in case of any change thereto.

(c) The Applicant shall report to the Vijapur Naka Police Station, Solapur on the first Sunday of every month between 11.00 a.m. and 1.00 p.m. until the conclusion of the trial.

(d) The Applicant shall not directly or indirectly make any inducement, threat, or promise to any person acquainted with the facts of the case, so as to dissuade such

a person from disclosing the facts to the Court or to any Police personnel.

(e) The Applicant shall not tamper with the prosecution evidence and shall not contact or influence the Complainant or any witness in any manner.

(f) The Applicant shall attend the trial regularly. The Applicant shall co-operate with the Trial Court and shall not seek unnecessary adjournments thereat.

(g) The Applicant shall surrender his passport, if any, to the Investigating Officer.

14. The Bail Application is disposed of accordingly.

15. In view of disposal of the Bail Application, the Intervention Application, being I. A. No. 859 of 2024 does not survive and same stands disposed of accordingly.

16. It is clarified that the Trial Court shall decide the case on its merits, uninfluenced by the prima facie observations made in this order.

[MADHAV J. JAMDAR, J.]