

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

BAIL APPLICATION NO. 425 OF 2024

Sandeep Bankar

...Applicant

Versus

The State of Maharashtra

...Respondent

- Ms. Kajal Singh, for Applicant (Through V.C.)
- Mr. Prasanna Pradeep Malshe, APP, for State.
- Mr. Sachin Tambe, PSI, M.I.D.C. Police Station.

SHRIKANT
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MALANI

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CORAM : MANISH PITALE, J.

DATE : 10th JUNE, 2024.

P. C. :

1. Heard learned counsel for the applicant and the learned APP.
2. The applicant was arrested on 21st January, 2023 in connection with First Information Report No. 0049 of 2023 registered at Police Station M.I.D.C., Mumbai, for the offences under Sections 304, 297, 337, 338 and 34 of the Indian Penal Code along with Sections 134 (A) and 134(B) and Section 185 of the Motor Vehicles Act, 1988 along with Section 65(E) of Maharashtra Prohibition Act, 1949.
3. The allegation against the applicant is that he was driving a car under the influence of liquor and he dashed certain persons having lost control of the vehicle, leading to the death of two persons. The applicant was accompanied with another accused person.
4. The investigation was completed and charge-sheet was filed.

5. The learned counsel appearing for the applicant at the outset submitted that the co-accused person has been already granted bail by order dated 14th December, 2023 passed by this Court in Bail Application No. 2353 of 2023. It is further submitted that the applicant has been behind bars for more than 1 year and 5 months and in that backdrop this Court may consider enlarging him on bail, subject to conditions that this Court may deem appropriate.

6. The learned APP has opposed the prayer made in the present application. He submits that there is no question of parity because in the order granting bail to the co-accused person, this Court had specifically recorded that the co-accused was only sitting next to the present applicant and that it was the applicant who was driving the car under the influence of alcohol. Attention of this Court was invited to the statements of witnesses, including the statement of one Rupesh recorded on 27th January, 2023, wherein he stated that he knew the applicant / accused and he also knew the fact that the applicant did not know how to drive a vehicle. By relying on such material available on record with the charge-sheet, it is submitted that there is no case made out for grant of bail.

7. This Court has considered the material on record, including the statements of witnesses, as also the medical reports. The material on record

does *prima facie* indicate the involvement of the applicant in the incident in question.

8. The applicant cannot claim parity with the co-accused person who was granted bail by this Court, simply for the reason that the only allegation against co-accused person was that he was accompanying the applicant in the car at the time of incident. In that sense, the main accused person is the applicant before this Court, who was alleged to have driven the car under the influence of liquor, causing the death of two persons.

9. Nonetheless, the material on record does show that the medical examination of the applicant was undertaken, his blood samples were taken and that the reports are also on record. The applicant has been behind bars since 21st January, 2023 i.e. a period of more than 1 year and 5 months. The charge-sheet also shows that the prosecution would be examining about 35 witnesses, indicating that the trial may take some time.

10. In view of the above, this Court is inclined to allow the present application, subject to appropriate conditions being imposed on the applicant.

11. In view of the above, the application is allowed on the following terms.

- (A) The applicant shall be released on bail in connection with
First Information Report No. 0049 of 2023 registered at

Police Station M.I.D.C., Mumbai, for the offences under Sections 304, 297, 337, 338 and 34 of the Indian Penal Code along with Sections 134 (A) and 134(B) and Section 185 of the Motor Vehicles Act, 1988 along with Section 65(E) of Maharashtra Prohibition Act, 1949, on furnishing PR bond of Rs.1,00,000/- and one or more sureties of like amount, subject to the satisfaction of the Trial Court.

- (B) The applicant shall report to Police Station M.I.D.C., Brihanmumbai , on the first Monday of every month between 10.00 a.m. to 12 noon, during the pendency of the trial.
- (C) The applicant shall not drive any vehicle whatsoever during the pendency of the trial.
- (D) The applicant shall surrender his Driving License, if any, with the Investigating Officer within one week of release on bail.
- (E) The applicant shall not tamper with the evidence in any manner. He shall not influence the informant, witnesses or any other persons concerned with the case.

(MANISH PITALE, J.)