

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
CRIMINAL BAIL APPLICATION NO.3358 OF 2024

Namdeo Giraju Pol	...	Applicant
V/s.		
The State of Maharashtra	...	Respondent

Advocate Sherali Khan with Nadeem Shaikh, for the applicant.
 Ms. Geeta Mulekar, APP, for the Respondent / State.

CORAM : ANIL S. KILOR, J.

DATE : 14TH NOVEMBER, 2024.

Digitally
signed by
VARSHA
DEEPAK
GAIKWAD
Date:
2024.11.18
16:34:36
+0530

PC:

1. Heard.
2. By this application under Section 439 of the Code of Criminal Procedure the applicant is seeking bail in Crime No.33 of 2024, registered with Uran Police Station, Navi Mumbai, for the offences punishable under Section 279, 337, 338, 304 (II) of the Indian Penal Code and Section 184 of the Motor Vehicle Act.
3. The allegation against the applicant is that he was driving a bus of Mumbai Mahanagar Transport (NMMT) on the date and time of the incident. It is alleged that he was under the influence of alcohol and because of negligent and rash driving the alleged incident took place wherein one person has lost his life.

4. From the record, it is evident that the applicant was on duty from early morning, i.e. 5.30a.m. and accident took place at about 10.00a.m. i.e. after about 4 and ½ hours. There is no evidence to show that the applicant was in a state of intoxication.

5. The learned APP while opposing the bail application is harping upon two statements.

6. The statement of a police officer Sanjay Ramchandra Pawar who stated that he conducted the alcohol test of the applicant by breath analyzer machine and the report was positive. However, no such report is on record. Furthermore, the alleged incident is dated 08.02.2024 and the statement of Sanjay Ramchandra Pawar was recorded on 23.03.2024 i.e. after 1 and ½ months of the incident.

7. Another statement is of the conductor of the said bus. The said statement was recorded on 02.03.2024 i.e more than after 25 days.

8. It has come on the record that due to mob gathered at the spot of incident police could not take the applicant to the hospital and conduct the blood test. Further, it has also come on the record that when the blood test was conducted but it was not in relation with the alcohol. Thus, the fact remains that there is no prima facie evidence to show that the applicant was under the influence of liquor.

9. In the circumstances, I am of the opinion that the applicant is entitled for grant of bail. Accordingly, I pass the following order:

ORDER

- i) Criminal application is allowed;
- ii) It is directed that the applicant shall be released on bail in Crime No.33 of 2024, registered with Uran Police Station, Navi Mumbai, for the offences punishable under Section 279, 337, 338, 304 (II) of the Indian Penal Code and Section 184 of the Motor Vehicle Act, on furnishing PR.Bond of Rupees Twenty-Five Thousand with one solvent surety in the like amount;
- iii) The applicant shall attend the concerned Police Station on 1st day and 16th of every month between 10.00a.m. to 11.00 a.m., till the conclusion of the trial except on the date of trial;
- iv) The applicant shall not directly or indirectly make any inducement, threat or promise to any person acquainted with the facts of the case, as also not tamper with the evidence;
- v) Liberty is granted to the State to apply for cancellation of bail in case of any breach of condition or misuse of liberty by the applicant.
- vi) The applicant shall attend the trial before the trial Court regularly on every date unless exemption is granted by the trial Court.

10. The application is disposed of .

(ANIL S. KILOR, J)