

THE HONOURABLE DR.JUSTICE G.RADHA RANI

CRIMINAL PETITION No.2758 OF 2024

ORDER:

This Criminal Petition is filed by the petitioner-Accused under Section 438 of Cr.P.C. for grant of anticipatory bail in Crime No.222 of 2023 of Lungar House Police Station, Hyderabad, registered for the offences punishable under Sections 304 Part-II and 279 of IPC and Section 185(a) of the Motor Vehicles Act, 1988 (M.V. Act).

2. The case of the prosecution, in brief, was that on 22.07.2023, the *de-facto* complainant lodged a report stating that she received a phone call from an unknown person informing that her husband met with an accident and died on the spot. She visited the spot and lodged the report stating the number of the Aactiva vehicle driven by her husband as TS07GW0948 and the number of the car which hit her husband's vehicle as TN22BQ3462. Basing on the said report, the above crime was registered. Initially, the case was registered for the offence under Section 304-A of IPC and subsequently the Section of law was altered to Section 304 Part-II and 279 of IPC and Section 185(a) of the M.V. Act.

3. Heard the learned counsel for petitioner and the learned Additional Public Prosecutor representing the respondent-State.

4. Learned counsel for the petitioner submitted that the police illegally detained the petitioner and beat him black and blue causing grievous injuries without showing official arrest, as such, he was constrained to approach this Court by filing CrI.P.No.6883 of 2023 and this Court directed the police to issue notice under Section 41-A of Cr.P.C. *vide* its order dated 26.07.2023. The police without issuing any notice forced to settle the matter with the *de-facto*-complainant and filed an undated alteration memo altering the provision of law from Section 304A of IPC to Section 304 Part-II of IPC and were trying to arrest him and prayed to grant anticipatory bail to the petitioner.

5. Learned Additional Public Prosecutor reported that as per the investigation conducted by the police, the petitioner was in intoxicated condition and as per the breath analyzer test, the alcohol percentage of the petitioner was 143 mg per 100 ml. The petitioner drove the vehicle in a drunken state with knowledge that his act was likely to cause the death of a person. As such, the Section of law was altered from Section 304-A of IPC to Section 304 Part-II of IPC and prayed to dismiss the petition.

6. Perused the record.

7. Considering that the date of the incident was on 22.07.2023 and the Section of law was altered after a delay of more than (08) months and a substantial part of the investigation was completed and as the petitioner was having strong roots in Hyderabad, it is considered fit to grant anticipatory bail to the petitioner with certain conditions.

8. Accordingly, the Criminal Petition is allowed and the petitioner/accused shall be released on anticipatory bail subject to the following conditions:

- 1) The petitioner is directed to surrender before the Station House Officer, Lungar House Police Station, Hyderabad, within a period of 15 days from the date of this order. On such surrender, the said Station House Officer shall release the petitioner on bail, on his executing a personal bond for a sum of Rs.25,000/- (Rupees Twenty Five Thousand only) with two sureties for a like sum each to the satisfaction of the said Station House Officer.
- 2) The petitioner/accused shall abide by the conditions stipulated under Section 438(2) of Cr.P.C. and shall co-operate with the Investigating Officer in investigation of the case.

Miscellaneous petitions pending, if any, shall stand closed.

Date: 13.03.2024

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Dr. G. RADHA RANI, J