

Ajit Pathrikar

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
BAIL APPLICATION NO. 3589 OF 2025**

Mihir Rajesh Shah	...Applicant
<i>Versus</i>	
State of Maharashtra	...Respondent

Mr. Ashok Mundargi, *Senior Advocate, with Mr. Jay K. Bharadwaj, Harsh Ramchandani, Disha Bajaj and Swarali Joglekar, for the Applicant.*

Ms. M. M. Deshmukh, *with Anuja Gotad, Ms. Anamika Malhotra, Poonam Bhosale, Megha Bajoria, Manisha Tidke, Yogesh Dabke, APPs. for the Respondent-State.*

Mr. Dilip Satale, *with S Patel and Padma C., for the Intervenor/Complainant.*

Mr. Ashok Kamble, *PI, with Sampat Chemate, API, with Atul Kumbhar, PSI, attached to Worli Police Station, present.*

CORAM	DR. NEELA GOKHALE, J.
RESERVED ON:	17 TH NOVEMBER 2025
PRONOUNCED ON:	21 ST NOVEMBER 2025

JUDGMENT:-

1. The Applicant seeks his release on bail in connection with C.R. No. 378 of 2024 dated 7th July 2024 registered with the Worli Police Station, Mumbai for the offences punishable under Sections 134(A), 134(B), 184, 187 of the Motor

Vehicles Act, 1988 and Sections 105, 125(b), 238, 281 and 324(4) of the Bharatiya Nyaya Sanhita, 2023 ('BNS').

2. The First Informant is one Pradeep Nakhwa, husband of the deceased and the Intervenor in the present Application. The facts of the case, as discerned from the FIR, are as under :-

2.1 On 7th July 2024, Mihir Shah, the Applicant herein, was driving a white BMW car, at a high speed, which violently collided with the First Informant's scooter from behind. The First Informant was riding the scooter with his wife, Kaveri ('Victim/Deceased') as pillion, going towards Worli from Peddar Road. While the First Informant was riding his scooter cautiously on the left side of the road, the said BMW car hit the scooter from behind. The impact propelled the First Informant and his wife onto the car's bonnet. On seeing two people on his bonnet, the person driving the car, applied brakes to halt the car. The First Informant saw a 20-25 year-old man in the driver's seat and a middle-aged man, sitting

next to him. The person driving the car is identified as the Applicant herein and the person sitting next to him, as the driver employed by the Applicant. The sudden application of the brakes resulted in the First Informant being thrown off the bonnet, and his wife being entangled between the car's front left wheel and the front fender.

2.2 The First Informant and his wife screamed in agony. Despite the screams and the deceased being stuck under the wheels of the car, the Applicant heedlessly persisted in his reckless flight, dragging the Victim/Deceased with the car for about 1½ - 2 Kms. ahead. The First Informant shouted at the driver to stop the car, indicating that his wife was stuck under the wheels of the car. The First Informant ran behind the car frantically, trying to persuade the car driver to stop the car. The Applicant, however, drove away in high speed, dragging the stuck Victim/Deceased with him.

2.3 The First Informant hailed a taxi. He followed the car in the taxi, but the high-speed BMW car was not to be seen.

Ultimately, the First Informant went to the Worli Police Station and narrated the incident to the police. The Police received a wireless message that a body of an unknown lady was lying on the sea-link road. The body was taken to Nair Hospital. The First Informant, accompanied by the Police, went to Nair Hospital and identified the body to be of his wife. The body was mangled and had suffered serious injuries. Pursuant to the complaint noted by the Police, the FIR was registered.

2.4 Initial investigative steps concluded that the BMW car was driven by the Applicant. Spot Panchanama was drawn and the CCTV footages along the road were collected. CCTV footages revealed that the offending car proceeded towards Bandra from the sea-link. The Police traced the route taken by the said car. At the Kalanagar Junction flyover, they found the car which had broken down. There were two people standing next to the car and a towing van. Upon enquiry, it was revealed that one of the two people was Rajrishi Rajendra Singh Bindawat, the driver employed by the Applicant's family, and the other was Rajesh Shah, the Applicant's father.

Bindawat informed that the car had met with an accident. Both were taken to the Police Station.

2.5 Further investigation revealed that the Applicant was driving the car at the time of incident. Statements of witnesses, including that of Rajrishi Rajendra Singh Bindawat, corroborated the information given by the First Informant regarding the accident. Statement of one Tirup Inamdar, Mihir's acquaintance, revealed that Mihir, another friend-Ankit, and Tirup had dinner together on 6th July 2024. At 9:45 p.m., Mihir came in his Mercedes car with his driver, also accompanied by one Dhruv. They all went to Vice Global Tapas Bar at 11:00 p.m. They ordered three large servings of Jack Daniels Apple liquor, Red Bull, and ginger ale. The Applicant, Dhruv, and Tirup consumed the liquor and food. The liquor order was repeated thrice. Mihir paid the bill and they left. They dropped one friend in Borivali, and Tirup thereafter. Dhruv and Mihir along with Rajrishi remained in the car. The quantity of liquor and food that was ordered in the bar was confirmed during investigation. It was further

revealed that Mihir and Rajrishi went home after dropping Mihir's friends at Borivali. However, instead of going inside the house, Mihir decided to go for a drive on Marine Drive at 2:30 a.m. At this point, Mihir parked the Mercedes at home, and took the BMW. Thereafter, they decided to return to Borivali from Marine Drive. Rajrishi was driving the car, however, Mihir insisted on taking the wheel and took over the driving. It was at this time, at around 5:30 a.m., that the accident took place.

2.6 Statement of one Rizwan Razak Shaikh was recorded, which indicated that since it was raining that morning around 5:15 a.m., he and another person called Akash Poni took shelter inside a shed near the Worli sea-link toll booth. They were the toll plaza employees. They heard a loud bang and noticed a white colored BMW car stopping at the distance of a 100 ft. They also saw an injured woman lying on the road. They called the ambulance and the police.

2.7 The CCTV footage of the toll plaza was collected. It showed that the car stopped and the driver gave a card to the toll employee but did not wait to take it back. They sped away when the toll boom was lifted. Another statement of a beer vendor confirmed that at 3:45 a.m. on 7th July 2024, Mihir and Rajrishi had purchased four cans of Budweiser beer from him. It is also alleged on the basis of the CCTV footage, that pursuant to the accident, Rajrishi and Mihir exchanged seats in the car and Rajrishi took over the steering wheel. When they reached the signal at Kalanagar flyover the car broke down. They called Mihir's father, Rajesh Shah, who came and assisted Mihir to flee. Rajrishi and Rajesh Shah were arrested under an Arrest Panchanama. They were produced before the Magistrate and were remanded to judicial custody.

2.8 Thus, on completion of investigation, the charge-sheet was filed in the court concerned. Mihir was found after two days of search, and arrested on 9th July 2024 at 23:33 hours by Worli Police. He was remanded to judicial custody. Mihir filed a Criminal Writ Petition No. 3533 of 2024 before this

Court challenging his arrest as illegal and for quashing the remand order. He also filed a Bail Application No. 1249 of 2024 before the JMFC, 62nd Court, Dadar, seeking default bail. The said application was rejected. This Court vide order dated 25th November 2024 also dismissed the Writ Petition No. 3533 of 2024. Mihir filed a Special Leave Petition (Crl.) No. 17132 of 2024 ('SLP') in the Supreme Court challenging the order dated 25th November 2024 passed by this Court. By order dated 6th November 2025, the Supreme Court while expounding the law pertaining to grounds of arrest, dismissed Mihir's SLP.

2.9 Mihir filed a bail application before the Sessions Court, Mumbai and by order dated 22nd August 2025, the said bail application was rejected by the Sessions Court. Hence, Mihir is before this Court for the relief as prayed.

3. Mr. Ashok Mundargi, learned Senior Counsel appeared for the Applicant and Ms. Mankuwar Deshmukh, the learned

Public Prosecutor represented the State. Mr. Dilip Satale, learned Counsel represented the First Informant/Intervenor.

4. Mr. Mundargi, at the very outset, submitted that Mihir is in custody for one year and four months. He is a young man of 24 years and has no criminal antecedents. He has roots in Mumbai and there is no question of Mihir absconding or tampering with the evidence as the chargesheet is already filed. He further submitted that to invoke Section 105 Part-I of the BNS, intention is mandatory. In the present case, Mihir had never met the deceased before and hence, there is no question of him having any motive or intention to cause death of the deceased. Hence, he submitted that application of Section 105 Part-I is totally misconceived.

5. Mr. Mundargi also submitted that lack of intent to cause death of the Victim/Deceased is clear from the fact that Mihir braked the car immediately on hitting the scooter from behind. In any case, there is no CCTV footage to show the impact. Mr. Mundargi also took me through Mihir's statement.

Mihir has given the entire sequence of events that took place through 6th July 2024 from 11:00 a.m. up to 9th July 2024. Mihir stated that he changed places with his driver after having hit the scooter as he had panicked. Thereafter, when the car broke down, they called his father. He then went to his girlfriend's house and waited there for one and a half hour. Thereafter, he was roaming around Mumbai as he feared being arrested by the police. He was ultimately arrested when he was at Pelhar Phata. Thus, Mr. Mundargi, forcefully relying upon Mihir's statement submitted that Mihir had no intention to commit the offence; he changed seats only because he panicked; he drove away because he got scared and he kept out of the way for fear of being arrested. Thus, Mr. Mundargi urged the Court to enlarge the Applicant on bail.

6. Mr. Mundargi also placed reliance on the decisions of the Supreme Court in the matter of *State Tr. P. S. Lodhi Colony, New Delhi Vs. Sanjeev Nanda*¹; *Atiq Ahmed Vs. State of UP*² to canvass that *sans* any intent to commit offence,

¹ (2012) 8 SCC 450

² 2018:AHC:34890

Section 105 Part-II may be invoked and not Part-I (corresponding erstwhile IPC offence of Section 304)

7. *Per contra*, Ms. Deshmukh submitted that Mihir was heavily intoxicated. He was aware that his action of driving under influence was likely to cause death of any person, *albeit* he may not have intent nor have any knowledge himself to be likely to cause death of any person. Ms. Deshmukh brought to my attention the statements of various witnesses, who witnessed Mihir driving the car at high speed, dashing the scooter of the First Informant, and the woman lying on the road with grave injuries and crushed legs. Witnesses also stated regarding the quantity of alcohol consumed by Mihir immediately before embarking on a rash driving spree in the BMW. She submitted that at least three eyewitnesses have stated that they saw the BMW car being driven at high speed, hitting the scooter, and the woman being dragged by the car without the driver stopping the car. The security guard at Ceejay House also saw the First Informant shouting at Mihir to stop the car as his wife was stuck under the car. Ms.

Deshmukh further took me through the postmortem report which shows as many as 12 serious injuries. The cause of death is opined to be *'shock and haemorrhage, following multiple graze abrasions and injury to the vital organs in a case of road traffic accident (unnatural)'*.

8. Ms. Deshmukh stressed on the conduct of the Applicant post the accident. She stated that the streetlights were on, the BMW car headlights were on, Mihir was well aware that the deceased was stuck under the car and yet he drove away at a high speed, dragging the deceased to the extent that even a car such as a BMW broke down. She submitted that Mihir tried to tamper with the evidence by exchanging the driving seat with his driver - Rajrishi. He then called up his father who promptly came to the spot and Mihir took off, only to be found by the police after about two days. The object of absconding, according to Ms. Deshmukh, was to tamper with the evidence, inasmuch as to reduce the content of alcohol in his body. All these actions of Mihir clearly demonstrate that he is likely to tamper with the evidence, intimidate witnesses and

likely to abscond, so as to avoid trial. She also submits that Mihir has political influence as his father is an active worker in the ruling dispensation in the State. In these circumstances, Ms. Deshmukh urges this Court to reject the Bail Application.

9. Mr. Satale, appearing for the Intervenor, supported the arguments of Ms. Deshmukh.

10. I have heard learned Counsel appearing for the respective parties and perused the record with their assistance.

11. I have gone through the entire chargesheet carefully including the statements of Mihir's friends, eyewitnesses on the road, the toll employees, and Mihir himself. The material on record indicates that having accidentally crashed into the scooter, Mihir sped away at a high speed dragging the victim underneath the car for as many as 1.5-2 Kms. Mihir was heavily inebriated and in no condition to drive. Yet he chose to drive the high-end BMW car at a high speed. Remorselessly, he failed to stop the car and assist the First Informant and the

deceased in taking them to a hospital or even simply stopping the car and calling for help. His further actions indicate clear intent to escape the consequences and avoid arrest. His conduct in exchanging seats and, calling his father and leaving the scene of offence indicate the predilection to tamper evidence and/or intimidate witnesses.

12. Admittedly, Mihir was driving the car at a high speed under the influence of alcohol. He was unable to control the car which resulted in the death of Kaveri, First Informant's wife. As Mr. Mundargi would want the Court to observe inapplicability of Section 105 Part-I of the BNS, this is not the stage to decide the said aspect. The same will be decided by the Trial Court at an appropriate stage. Although the investigation is complete and the chargesheet is filed, the conduct of Mihir does not inspire confidence in this Court that he is not likely to tamper with the evidence or intimidate witnesses. Although, Mihir is in custody for about one year and four months, the maximum punishment provided under Section 105 of BNS is between 10 years and life

imprisonment. Hence, it cannot be said that Mihir has suffered long incarceration. The offence is serious, having cost the deceased her life and the First Informant, his wife.

13. I have gone through the decisions cited by Mr. Mundargi. The facts in the case of *Atiq Ahmed (supra)* are quite distinct from the facts in the present case. The decision of the Apex Court in the case of *Sanjeev Nanda (supra)* is an appeal against the conviction order, and the finding of the Supreme Court regarding applicability of erstwhile Section 304 of the IPC (equivalent to Section 105 of the BNS) is rendered in an appeal against conviction, when the Trial Court had opportunity to appreciate the evidence in that matter, in the course of the trial. The issue regarding applicability of Section 105 of the BNS in the present case will be decided during the course of the trial. It is settled law that there is no straight jacket formula in deciding bail-related matters, each case to be assessed on its own facts, the seriousness of the accusation and the nature of the evidence.

14. Taking into consideration the nature, gravity and seriousness of the offence and the circumstances of the case, the position of the Applicant, his conduct post the accident and the reasonable apprehension of the witnesses being tampered with or the evidence being lost otherwise, and the Applicant not being available to face the trial without undue delay, in my view, this is not a fit case nor in the interest of justice, that the Applicant should be enlarged on bail.

15. The Application is accordingly dismissed.

16. Considering that the Applicant is 24 years of age, has suffered incarceration of one year and four months as on date, the chargesheet already being filed before the Trial Court and that bail is rejected essentially on the apprehension of tampering with witnesses/evidence and remaining absent in the trial thereby delaying the trial, liberty is granted to the Applicant to renew his prayer for bail after the evidence of the key eyewitnesses is recorded by the Trial Court.

17. It is made clear that the observations made herein are *prima facie* and are confined to this Application and the Trial Judge to decide the case on its own merits, uninfluenced by the observations made herein.

(DR. NEELA GOKHALE, J)