

**IN THE COURT OF ADDL.SESIONS JUDGE AT PAITHAN,
DISTRICT AURANGABAD**

MHAU170001762026



**Cri. Bail Application No. 40 of 2026
Abhishek s/o Ashok Dhas Vs. The
State of Maharashtra.**

**Crime No. 353 of 2025, U/sec.
105,106(1), 281, 125(a),125(b),110
of BNS and u/s. 134, 146, 184,
185,187 of M.V.Act. Police Station
Paithan, Dist. Aurangabad.**

ORDER BELOW EXHIBIT 01

1. This is **second** application U/sec. 483 of Bharatiya Nagarik Suraksha Sanhita, 2023, (for short "BNSS") for grant of regular bail by applicant Abhishek s/o Ashok Dhas.
2. The Investigating Officer has opposed the application by filing his reply vide Exh. 4. He has objected the application on the ground that the applicant drove his vehicle in a rash and negligent manner and gave severe dash to the motorcycle and caused death of deceased. It is his further contention that there is possibility of tampering with the prosecution witnesses, if the applicant is released on bail. It is his further contention that the applicant and informant reside in the same vicinity and therefore, there is possibility of commission of serious crime by the applicant.
3. Heard learned counsel for the applicant and learned APP for the State. Perused the application, say and copy of charge-sheet. The FIR discloses the allegation that the applicant caused the

death of Bhausahab Vitthalrao Pise and Sambhaji Baburao Kardile by driving Swift Dzire Car bearing No. MH-17-AZ-1045 in rash and negligent manner and by giving severe dash to the motorcycle bearing No. MH-20-CG-1421. FIR further discloses the allegation that applicant knew that Paithan – Sambhajnagar road is a heavy traffic road and people from ‘Shashivihar Wasahat’ walks in the night after dinner on said road and having such knowledge, he drove his Car in a high speed and in a rash and negligent manner and gave severe dash to the motorcycle. FIR further discloses the allegation that one video went viral on social media and the said video shows that at the time of incident, the applicant was listening the music in loud voice and was taking the video of speedometer of the Car. FIR further discloses the allegation that applicant knew that the accident may happen if a video is recorded while driving the Car in high speed and still he did the same and caused the accident causing death of two persons. FIR further discloses the allegation that the applicant himself uploaded the said video on social media and on the next day, he made the settings of his social media accounts (face book, snap chat and instagram) as private and deleted the contents so as to destroy the evidence.

4. Police have filed charge-sheet against accused under sections 105,106(1),281, 125(a), 125(b) of Bharatiya Nyaya Sanhita and u/s. 134,146,184,187 of Motor Vehicles Act. The offences under Section 106,281,125(a),125(b) of BNS are bailable. Section 105 of BNS is non-bailable and triable by Court of Session.

5. So far as the offence under section 105 of BNS (corresponding to section 304 of IPC) is concerned, I would like to point out that, in the case of **Harendra Versus State of Bihar reported in AIR 1993 SC page 1977**, the Hon'ble Supreme Court has clarified that Section 304 of IPC does not create an offence but provides for punishment for culpable homicide not amounting to murder. If the death is caused and case is covered by any of the five exceptions of Section 300, then such culpable homicide is not amounting to murder. Section 304 draws a distinction for the penalty in cases covered by any of the five exceptions when there was intention to kill a person and where there was only knowledge that death will be likely to be caused.

6. In the case of **Bonda Devesu Versus State of AP (1996) 7 SCC 115**, the Hon'ble Supreme Court has observed that when it is proved that the accused had the intention to cause such bodily injury as is likely to cause death, the offence committed is punishable under section 304, Part I, IPC. Section 304, Part II is attracted when it is proved that even if the accused had no intention to cause such bodily injury as was likely to cause death but had the knowledge that the injury was likely to cause death.

7. The allegations levelled in the FIR *prima-facie* attracts part II of Section 105 of BNS. The punishment provided in part II is of imprisonment which may extend to 10 years and fine.

8. The FIR shows that at the time of alleged incident, three

to four persons were in the offending Car and immediately after the incident, the applicant as well as those three to four persons ran away from the spot despite they were asked to stop by the informant as well as one Dnyandeo Baban Nawale.

9. While deciding anticipatory bail application of the applicant, the informant had produced CCTV footage in a pen-drive and the same showed that at 22:42:06 hours on 03.10.2025, a speeding Car gave a severe dash to the motorcycle, which took turn and about to enter the society. The headlight of the motorcycle was on at that time, but the said Car was in a high speed. Another CCTV footage produced by the informant showed that the driver of the Car was recording a video of its speedometer while driving the Car. Therefore, the allegations levelled in the FIR cannot *prima-facie* be termed to be false or baseless.

10. It is well settled that while considering the grant or refusal of bail, the gravity of offence and severity of punishment needs to be seen. In the case in hand, FIR shows that the applicant fled away from the spot immediately after the accident, which claimed the life of two persons. Not only this, the persons accompanied him in the Car also fled away from the spot alongwith him despite they were asked to stop by the informant and Dnyandeo Nawale. Looking to the conduct of applicant immediately after the accident, bail cannot be granted to him.

11. The applicant is claiming innocence and in that regard

he relied upon the CCTV footage showing that deceased persons were drunk at the time of accident. It is true that the CCTV footage showed that deceased persons were drinking liquor at Atul Hotel (Beer Bar Shop) till 10.35 p.m. But, the CCTV footage produced by the informant nowhere showed any negligence on the part of deceased. Therefore, it cannot *prima-facie* be said that false accusations are made against the applicant.

12. This being second application for regular bail, the applicant is required to show that there is change in circumstance. In this regard, it is the submission of learned counsel for the applicant that since the Investigating Officer has filed charge-sheet, there is change in circumstance entitling applicant to bail. I am not convinced with this submission simply for the reason that filing of charge-sheet does not in any manner lessen the offence, on the contrary, filing of the charge-sheet establishes that after due investigation the investigating agency, having found materials, has placed the charge-sheet for trial of the accused person.

13. The learned counsel for applicant further relied upon the case of **Laxman Irappa Hatti and Suresh Irappa Vs. The State of Maharashtra, 2004 CRILJ 3802** and **Saurabh Khandelwal s/o Ashok Khandelwal Vs. The State of Madhya Pradesh Incharge Policed Station, Misc. Criminal Case No. 169 of 2023**, in support of present application. Both these judgments are on the point that filing of the charge-sheet is a change in the

circumstance and the Court is obliged to consider the merits of the case afresh by allowing the applicant or his advocate to argue an application for bail on the basis of documents supplied to the accused with the charge-sheet. On considering all the documents available on record and after hearing submissions of learned counsel for applicant, I do not find that applicant deserves to be released on bail.

14. In view of above observations and taking into consideration the nature, gravity and seriousness of the offence and the conduct of the applicant after occurrence of the incident, I am not inclined to grant bail to the applicant. Hence, I proceed to pass following order.

ORDER

Application is rejected.

Date: 13.03.2026

(R.D.Gadwe)
Additional Sessions Judge,
Paithan