



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

BAIL APPLICATION NO. 5341 OF 2024

Sabyasachi Devpriya Nishank .. Applicant
Versus
The State of Maharashtra .. Respondent

- Mr. Sachin Dhakephalkar, Advocate for Applicant.
- Mr. Dinesh J. Haldankar, APP for Respondent – State.

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CORAM : MILIND N. JADHAV, J.

DATE : JANUARY 23, 2025.

JUDGEMENT:

1. Heard Mr. Dhakephalkar, learned Advocate for Applicant and Mr. Haldankar, learned APP for Respondent – State.

2. This is an Application under Section 483 of the Bharatiya Nagarik Suraksha Sanhita, 2023 seeking Regular Bail in connection with C.R.No.575 of 2024 registered with Andheri Police Station for the offences punishable under Sections 110, 132, 281, 324(4) of the Bharatiya Nyaya Sanhita, 2023 (for short “**BNS**”) and Section 185 of the Motor Vehicles Act, 1988. Applicant is incarcerated since 28.11.2024.

3. Briefly stated, prosecution case is that on 28.11.2024 First Informant / Complainant was on night duty and was stationed at Gokhale Bridge, Western Express Highway, Andheri (East), Mumbai

for Blockade (Nakabandi) Check Post. At about 01:05 in the night, one motor car bearing No.MH47-Q-1349 came there but did not stop in spite of the fact that First Informant / Complainant asked him to stop and dashed the barricade and went away. Therefore First Informant / Complainant chased the said motor car. However the Applicant - accused did not even stop at the next Blockade (Nakabandi) Check Post at Holy Family School, Mahakali Road and there also gave dash to the barricades and tried to flee away and while doing so he drove his vehicle in rash and negligent manner and gave dash to 2-3 moving motor cars. Thereafter Applicant - Accused was accosted from the same spot and taken for medical examination for detection of alcohol and 42.5% alcohol was found in the blood. Thereafter present crime was lodged against Applicant – Accused and he was taken into custody.

4. Mr. Dhakephalkar, learned Advocate appearing for the Applicant would submit that First Informant / Complainant alongwith police machinery have misused their powers by registering the crime against Applicant on the basis of convoluted facts. He would submit that except Section 110 of BNS, all other sections invoked areailable and in so far as Section 110 is concerned the same is not applicable to Applicant herein but only in order to indict Applicant in a serious crime the said section has been invoked against him. He would submit that even assuming for the sake of argument that prosecution case is true, even then only offence of rash and negligent driving would be

disclosed against the Applicant upon consideration of the entire gamut of record and not an offence under Section 110 of BNS. He would submit that Applicant is a highly educated young individual working as Senior Vice President in a NBFC namely Centrum Wealth Limited and his indictment and incarceration in such a crime would be detrimental to his future career prospects. He would submit that Applicant is incarcerated since almost two months and his further incarceration is unwarranted considering the facts of the present case. Hence he would pray that Applicant be enlarged on bail on any terms and conditions as imposed by this Court.

5. *PER CONTRA*, Mr. Haldankar, learned APP for Respondent State would submit that the offence is serious in nature and the Accused has acted in a negligent manner by driving in an inebriated state and flouting the directions of public servant i.e. First Informant / Complainant. He would submit that Applicant was accompanied by one female who was also in an inebriated state who was the co-occupant in the car and Applicant flouted the direction of First Informant / Complainant on two occasions and did not stop, causing injury / damage to 2 / 3 moving cars and also to a police personnel.

6. I have perused the record of the case. It is *prima facie* seen that Applicant is a MBA from Indian Institute of Management, Lucknow. He is 32 years old, unmarried. His father is a retired Senior

Officer from the Reserve Bank of India. His mother who is present in Court is a business-woman. Applicant lives with his parents at Worli. Applicant was in an inebriated state on 28.11.2024 and disobeyed directions of First Informant / Complainant and did not stop his car at two Check Posts. *Prima facie*, It needs to be taken into account that all sections invoked against Applicant except Section 110 of BNS are bailable. Applicant is in custody for almost 2 months. He comes from a good family is what I gather after interacting with his mother who is present in Court. His further incarceration is not warranted considering his future prospects and the fact that he is young and highly educated. However as is *prima facie* evident from the record the Applicant was driving in a negligent manner in an inebriated state and disobeyed directions of the First Informant / Complainant and also caused damage to public property (barricades). The allegation of he having dashed two other vehicles in between the two Check Posts and any such person having lodged the Complaint is not borne out from the record. Due to his inebriated state, it is evident that he did not want to get apprehended and therefore evaded.

7. In view of the decision of the Supreme Court in the case of *Parvez Jilani Shaikh and Anr. Vs. State of Maharashtra and Anr.*¹, the Applicant is additionally directed to perform community service for grant of bail for release from the prison.

¹ 2015 SCC OnLine Bom. 7171

8. Considering the nature of the offence as also the background of the Applicant, Bail Application is allowed on the following terms:-

- (i) Applicant – Sabyasachi Devpriya Nishank is directed to be released on bail on furnishing P.R. Bond of Rs.1,00,000/- (Rupees One Lakh Only) with one or two sureties of the like amount;
- (ii) Applicant is permitted to furnish provisional cash bail of Rs.1,00,000/- (Rupees One Lakh Only) for securing his release and he shall replace the same with sureties as directed within four weeks from today;
- (iii) Applicant shall deposit Rs.50,000/- (Rupees Fifty Thousand Only) in Police Welfare Fund, Bank Account details of which shall be provided by the Investigating Officer within two weeks from today to Applicant as costs for damaging the public property;
- (iv) Applicant is directed to perform community service as one of the condition for grant of this bail. He shall report to the Traffic Officer manning the Traffic signal at Worli Naka Junction within 2 days of his release from prison on bail where the Applicant is residing and the said Traffic Officer shall depute the Applicant to stand at a particularly visible well-lit place on the

footpath of the said junction facing the road for a period of three hours between 7:00 pm to 10:00 pm on every Saturday and Sunday for a period of three months (i.e. for 12 Saturdays and 12 Sundays) by holding a flex banner (black lettering and white background) admeasuring 4 feet X 3 feet (which shall be prepared by him at the instruction of the Traffic Officer) in his hands which shall state the words “**Don’t Drink and Drive**” in bold and big font alongwith coloured graphic image:-



This is to create and spread awareness and message about the ills of drinking and driving and its harmful effects. The concerned Traffic Police Officer shall

prepare a report of compliance of the Applicant undergoing the community service and submit the same before this Court after three months;

- (v) The learned APP will convey this order to the concerned Traffic Inspector manning the Worli Naka Signal;
- (vi) The driving licence of the Applicant shall be deposited with the Investigating Officer, the said licence would be retained by the Investigating Officer until compliance of this order and returned back only after the status report of compliance is made to the Court;
- (vii) Applicant shall not influence any witness or tamper with the evidence in any manner;
- (viii) Applicant shall attend the concerned Investigating Officer as and when called for;
- (ix) Applicant shall co-operate with the conduct of trial and attend the Trial Court on all hearing dates, unless specifically exempted and will not take any unnecessary adjournments. If he does so it will entitle the prosecution to apply for cancellation of this order;

- (x) Applicant shall keep the Investigating Officer informed of his current address and mobile contact number and / or change of residence or mobile details, if any, from time to time, as applicable; and
- (xi) Any infraction of the above conditions or repetition of the above offence shall entail prosecution to apply for cancellation of bail granted to the Applicant.

9. It is clarified that the observations in this order are for the limited purpose of granting Bail and are merely *prima facie* in nature.

10. Bail Application is allowed and disposed.

[MILIND N. JADHAV, J.]

Ajay

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