



**HIGH COURT OF JUDICATURE FOR RAJASTHAN AT
JODHPUR**

S.B. Criminal Appeal No. 51/2023

Yogendra Singh Negi

----Appellant

Versus

1. State Of Rajasthan, Through Pp
2. Hanuman Ram S/o Sh.

----Respondents

For Appellant(s) : Mr.Rakesh Arora
For Respondent(s) : Mr.Laxman Solanki
For Complainant : Mr.S.K.Verma,
Mr.Rahul Rajpurohit.

HON'BLE MR. JUSTICE KULDEEP MATHUR

Order

Reportable

16/05/2023

The case of the prosecution is that at about 10-11 a.m., on the morning of 05.01.2023, the appellant who is a doctor working in a Government hospital, in an inebriated state, while driving his car bearing No.RJ-07-CD-5020 caused an accident at the hospital, where he was working, wherein the car rammed into the general public/patients standing there resulting in on the spot death of one Bhanwar Lal and miscarriage of a pregnant woman namely Smt. Nazia Bano.

Learned counsel for the appellant submitted that the appellant has been falsely implicated in the present case. Learned counsel submitted that alleged offence under Section 304 IPC is



not made out against the appellant and at most, it is a case of Section 304-A IPC. Learned counsel submitted that the alleged incident took place when the appellant was driving the offending car, who on entering the hospital suddenly lost control while the car was going through a speed breaker. It was submitted that due to rush and congestion near the hospital gate, unfortunately, the car had plowed into the persons standing there.

Lastly, learned counsel submitted that the appellant who is serving as a doctor in a Government hospital is now near the age of retirement. Learned counsel submitted that since investigation in the matter has already been completed, challan has already been filed and no recovery is due to be made from the appellant, no fruitful purpose would be served by keeping the appellant behind the bars. He thus implored the Court to accept the bail application and enlarge the petitioner on bail.

Per contra, learned Public Prosecutor and learned counsel for the complainant vehemently opposed the bail application. Learned counsel invited attention of the court towards the report of Medical Jurist, Government Hospital, Nagaur pertaining to alcohol consumption by the appellant and submitted that in the aforesaid report, it had been clearly opined that the appellant had consumed alcohol/liquor. Learned counsel submitted that on the face of the report, the argument put forth that the appellant lost control over the car due to rush and congestion near the hospital gate deserves to be rejected.

Learned counsel vehemently submitted that in the incident which took place on 05.01.2023, not only one person lost his life



and a lady suffered miscarriage but 4-5 other persons standing near the hospital gate were also injured. To substantiate this argument, learned counsel took the Court to the charge sheet submitted by the investigating agency on 04.03.2023. He thus implored the Court not to grant indulgence of bail to the petitioner.

Heard learned counsel for the appellant, learned Public Prosecutor and learned counsel for the complainant.

Hon'ble the Apex Court in the case of **State Through PS Lodhi Colony, New Delhi vs. Sanjeev Nanda** reported in **2012 8 SCC 450** while dealing with the menace of drunken driving observed as under:

"86. Drunken driving has become a menace to our society. Every day drunken driving results in accidents and several human lives are lost, pedestrians in many of our cities are not safe. Late night parties among urban elite have now become a way of life followed by drunken driving. Alcohol consumption impairs consciousness and vision and it becomes impossible to judge accurately how far away the objects are . When depth perception deteriorates, eye muscles lose their precision causing inability to focus on the objects. Further, in more unfavourable conditions like fog, mist, rain etc., whether it is night or day, it can reduce the visibility of an object to the point of being below the limit of discernibility. *In short, alcohol leads to loss of coordination, poor judgment, slowing down of reflexes and distortion of vision.*

(Emphasis supplied)

Hon'ble the Apex Court in the case of **Alister Anthony Pareira vs. State of Maharashtra** reported in **2012 2 SCC 648**, held as under:

"41. Rash and negligent driving on a public road with the knowledge of the dangerous character and the likely effect of the act and resulting in death may fall in the category of culpable homicide not amounting to murder. *A person, doing an act of rash or negligent driving, if aware of a risk that a particular consequence is likely to result and that result occurs, may be held*





guilty not only of the act but also of the result. As a matter of law in view of the provisions of IPC, the cases which fall within the last clause of Section 299 but not within clause "Fourthly" of Section 300 may cover the cases of rash and negligent act done with the knowledge of the likelihood of dangerous consequences and may entail punishment under Section 304 Part II IPC. Section 304-A IPC takes out its ambit the cases of death of any person by doing any rash or negligent act amounting to culpable homicide of either description"
(Emphasis supplied)



Having gone through FIR, charge sheet and medical report dated 05.01.02023, this Court has no hesitation in reaching to a *prima facie* conclusion that the appellant who is doctor by profession was well aware of the consequences of driving the car in inebriated state under the influence of liquor. The petitioner in the morning hours, drove his car after consuming alcohol causing an accident which resulted in death of a person, a pregnant woman suffering miscarriage coupled with injuries to several persons/patients near the hospital gate.

The argument with regard to vehicle getting imbalanced due to rush and congestion around the hospital gate cannot be appreciated at this stage especially when the matter is yet to be tried by the competent criminal court so also the statement of complainant is yet to be recorded.

In the present case, the appellant who is working as a doctor in a Government hospital, saddled with the moral obligation of providing treatment to ailing patients has despite being aware of ill effects of drunken driving, in an inebriated state driven his car on a highly congested road inside the hospital in which he worked, resulting in death of a person, a pregnant woman's miscarriage and injuries to 4-5 other persons.



In the *prima facie* opinion of this Court, the incidents of speeding and drunken driving are increasing day by day and are the major contributing factors in the road accidents. While granting bails in such matter, the seriousness of the accusations has to be taken into consideration. The cases of such nature just cannot be compared with the cases where a person causes death by rash or negligent driving.

The application for bail is rejected.

It is made clear that findings recorded and observations made above are for limited purposes of adjudication of the bail application. The trial court shall not get prejudiced by the same.

The appellant is however given liberty to file a fresh bail application after recording of the statement of complainant and Smt. Nazia Bano W/o Salaudin and the trial court is directed to record their statements on priority.

(KULDEEP MATHUR),J

/tarun goyal/-