

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD**

**CRIMINAL APPLICATION NO. 1883 OF 2015
IN APEAL/343/2015 WITH APEAL/343/2015**

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BHIMA @ BHIMRAO BABURAO DESHMUKH
VERSUS
THE STATE OF MAHARASHTRA

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Advocate for Applicant : Mr. Bora Satyajit S.
APP for Respondent – State : Mr. A.V.Deshmukh

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CORAM : S.S. SHINDE & A. I. S. CHEEMA, JJ.
Dated: July 28, 2015

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PER COURT :-

1] Heard. The learned counsel appearing for the Applicant submits that, during pendency of the trial, the applicant was on bail. He further submits that, the prosecution did not discharge its burden to prove that, during said night on which incident had taken place the applicant was in the house. It is further submitted that, the inference drawn by the trial court is not sustainable. The case of the prosecution rests upon the circumstantial evidence, and the chain of circumstances has not been proved by the prosecution. He, therefore, submits that, the Applicant is entitled for bail during pendency of the Appeal.

2] On the other hand, the learned APP appearing for the Respondent – State, relying on the findings recorded by the trial Court submits that, the trial court has assigned cogent reasons, therefore, this Court may not grant bail.

3] We have heard the learned counsel appearing for the Applicant, and the learned APP appearing for the Respondent – State. With their able assistance, perused the grounds taken in the Application for bail, and also notes of evidence. *Prima facie*, it appears that, the findings recorded by the trial Court are in consonance with the evidence on record. The medical evidence supports the prosecution case, inasmuch as the death was homicidal.

4] In that view of the matter, *prima facie*, the findings recorded by the trial Court are sustainable. Since the Appeal filed by the appellant is pending for hearing, we refrain ourselves from discussing elaborately the evidence on record. Application for bail stands rejected.

5] Registry to send back the original record and proceedings to the Registry of the Sessions Court at Biloli. Upon receipt of original record & proceedings, the registry

of the concerned Court to prepare paper-book within 3 months from today. After preparation of the paper-book, registry of the concerned Court to send the paper-book along with original record to the Registry of this Court.

Upon receiving the paper book and the original record and proceedings, liberty to the learned counsel appearing for the appellant to apply for early hearing of the Appeal.

Sd/-
[A. I. S. CHEEMA, J.]

Sd/-
[S.S. SHINDE, J.]