

**IN THE HIGH COURT AT BOMBAY
APPELLATE SIDE, BENCH AT AURANGABAD**

CRIMINAL APPLICATION NO. 6686 OF 2014

Bandu s/o. Ambadas Thakre **....Applicant.**

Versus

The State of Maharashtra **....Respondent.**

Mr. N.V. Gaware, Advocate for applicant.

Mr. R.P. Phatke, APP for State.

CORAM : T.V. NALAWADE, J.
DATED : 6th January, 2015.

ORDER :

1. The application is filed for bail. Both the sides are heard. This Court has perused the papers of investigation.

2. The crime is registered on the basis of report given by widow of the deceased. The complainant has four issues from the deceased and the eldest issue Dnyaneshwar is aged about 17 years. The complainant had come in contact with present applicant as the applicant was friend of the deceased. They had developed illicit relationship. On one occasion, the husband had seen them in compromising position. After that the deceased had only expressed his grievance about the relationship.

3. The applicant had become angry as he was feeling that the deceased was becoming obstacle in his relation with the complainant. He had expressed that he wanted to finish the deceased. On 21.8.2014 after 7.00 p.m. present applicant and one Narayan Maghade visited the house of deceased and they took the deceased with them by saying that they were taking him to the field. Nobody saw the deceased alive after that incident. Inquiry was made by the complainant and her son Dnyaneshwar in the house of present applicant. But, on that night applicant was not at home and his wife informed that the deceased had not visited her house on that night. Search was made for the deceased and ultimately on 28.8.2014 the dead body of deceased was recovered from Eldari lake. The dead body was in decomposed condition, but there was one handkerchief around the neck showing that it was the case of strangulation. Both the legs were found to be tied by using handkerchief and the dead body was found to be kept in the bag of fertilizer. After recovery of the dead body, the complainant, the widow of the deceased became sure that it was the job of the applicant and she gave report against the applicant.

4. The P.M. report shows that the death took place due

to strangulation. The learned counsel for the applicant submitted that the evidence available as against the applicant is only of the circumstantial nature and so, the applicant is entitled to get the bail. This proposition is not at all acceptable. A witness may lie, but the circumstance never lies. The provisions of sections 106 and 117 of the Evidence Act can definitely be used against the present applicant. There is circumstance of last seen and also there is material on motive. Inmates of the house of the deceased gave statement that in their presence the applicant had taken the deceased with him on that night. In view of the aforesaid circumstances, there is clear possibility of tampering with the prosecution witnesses at the hands of the applicant. This Court holds that it is not a fit case to grant bail.

5. In the result, the application stands rejected.

[T.V. NALAWADE, J.]

ssc/