

2. The case of the prosecution is that between 9.00 hours on 06/08/2013 to 2.55 hours on 07/08/2013, the accused

committed murder of his girlfriend and room partner, namely Marketa Horka. The accused stabbed the deceased in a room of Green Leaf House, Calangute, Goa. The offence is registered against the accused at Crime No. 196/2013 for the offence punishable under Section 302 of I.P.C.

3. Heard Mr. Pinto, learned Advocate for the applicant and Mr. Rivankar, learned Public Prosecutor for the respondents.

4. With the help of the learned Counsel for the parties, I have gone through the papers of the investigation and other relevant record, from which, it is seen that the charge for the offence punishable under Section 302 was already framed and the learned Public Prosecutor points out that two witnesses are examined. On scrutiny of the record, it reveals that the witness Vinayak Natekar, the owner of the Guest House has stated that the deceased and the accused were last seen together on 06/08/2013 at about 18.00 hours. Further from the record, it reveals that there was stab wound on the person of the deceased. The door of the room was broke opened in the presence of the panchas. At that time, the deceased Marketa found lying on the ground in the pool of blood. Further the record shows that the blood stained clothes of the accused were seized and there was recovery of the weapon under the provisions of Section 27 of the

Evidence Act at the instance of the accused.

5. Learned Advocate appearing for the applicant has argued that the time of the alleged commission of offence is contradictory to the case of the prosecution itself, considering the time of the death of the deceased given by the Medical Officer, who conducted the post mortem.

6. Advocate Pinto has argued that as per the case of the prosecution, the alleged offence was committed during the period from 9.00 hours on 06/08/2013 to 2.55 hours on 07/08/2013. He further points out that the Medical Officer endorsed that the time of death of the deceased was within 24 hours prior to the preservation of the body in the morgue i.e. 2.25 p.m. on 07/08/2013. So, according to Mr. Pinto, the record of the prosecution is contradictory because as per the case of the prosecution, when the police prepared the panchanama of recovery of knife, they recorded the statement of the accused on 06/08/2013 about 8 hours. The accused left the room with knife and went to Railway station and hid the knife. So, according to Mr. Pinto, the story put forth by the prosecution is contradictory and if two parallel versions appearing from the Investigating papers, then, the accused is entitled for bail. In this behalf, he has relied upon the judgment in the case of **Madhav Manikrao**

Dhande Vs. State, 2012 All M R (Cri) 2473. It appears from the record that the Medical Officer has given this timing approximately. Therefore, the accused is not entitled to take undue advantage of the technicalities because the version of the Medical Officer is subject to cross-examination or clarification as the case may be. Hence, considering the serious nature of the offence and that fact that trial against the accused is already commenced, the accused is not entitled for bail. Hence, the Bail Application stands rejected.

SMA

K. L. WADANE, J.