

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY  
CRIMINAL APPELLATE JURISDICTION  
CRIMINAL BAIL APPLICATION NO. 117 OF 2015**

|                           |               |
|---------------------------|---------------|
| Babita Jaggusingh Labhana | ...Applicant  |
| Versus                    |               |
| The State of Maharashtra  | ...Respondent |

**WITH  
CRIMINAL APPLICATION NO. 155 OF 2015  
IN  
CRIMINAL BAIL APPLICATION NO. 117 OF 2015**

|                    |               |
|--------------------|---------------|
| Simran Raja Ochani | ...Intervener |
|--------------------|---------------|

**IN THE MATTER OF :**

|                           |               |
|---------------------------|---------------|
| Babita Jaggusingh Labhana | ...Applicant  |
| Versus                    |               |
| The State of Maharashtra  | ...Respondent |

Mr. S. V. Kotwal i/b Mr. Manoj Shamrao Mohite for the Applicant

Mr. Y. M. Nakhwa, A.P.P for the Respondent-State

Mr. Mohammed Umar Kazi for the Intervener

PI Mr. R. M. Avhad from Central Police Station, Ulhasnagar is present

**CORAM : REVATI MOHITE DERE, J.**

**THURSDAY, 9TH APRIL, 2015**

**P.C. :**

1. Heard learned Counsel for the applicant, learned A.P.P and the learned Counsel for the intervener.

2. By this application, the applicant seeks her enlargement on bail in connection with C.R No. I-359 of 2013 registered with the Central Police Station, Ulhasnagar, for the alleged offences punishable under Sections 302, 120-B, 201, 364A, 343, 344, 385 and 404 r/w 34 of the Indian Penal Code.

3. The incident in question has taken place on the intervening night of 23<sup>rd</sup> and 24<sup>th</sup> November, 2013. According to the prosecution, the present applicant and co-accused Priya had taken a loan of Rs. 1,20,000/- and Rs. 11,00,000/- respectively from the deceased. It is alleged that as the applicant and the co-accused Priya did not want to repay the said amount to the deceased, they hired the services of accused Nos. 1 and 4, for eliminating the deceased. It is alleged by the prosecution that a call was exchanged between the deceased and the applicant on 24<sup>th</sup> November, 2013 at about 11:00 p.m., pursuant to which, the deceased went to the house of the applicant, where the incident is alleged to have taken place.

4. The prosecution case rests on circumstantial evidence. According to the prosecution, a missing report was lodged by the wife of

the applicant on 25<sup>th</sup> November, 2013. In the missing report, the wife of the deceased has disclosed that on 24<sup>th</sup> November, 2013 at about 11:00 p.m. her husband Raja (deceased) received a call when they were having dinner. He disclosed to her that somebody had called and that he would go and return in five minutes. However, her husband did not return home. Thereafter, on 27<sup>th</sup> November, 2013, a complaint/FIR was lodged by Simran, wife of missing Raja, alleging offences punishable under Sections 364-A, 343, 346 and 385 of the IPC. She has reiterated in the said complaint that on 24<sup>th</sup> November, 2013, her husband received a call at about 11:00 p.m. when they were having dinner and accordingly, he left saying that he had to meet somebody and would return in five minutes. She has further disclosed in the complaint, that on 25<sup>th</sup> November, 2013, at about 9:00 p.m., her sister-in law Dimple Ram Rakhyani received a call on her mobile and the said person disclosed to her that “*Tumko paise bantne ka bahot shauk hai na, abhi ek khoka tayyar rakho hum kal phir phone karenge.*” Accordingly, a complaint was lodged by Simran, as against unknown persons stating that her husband was kidnapped for ransom. During the course of investigation, the cell phone information/record, of Raja (deceased) was obtained from the Cellular Company. From the said

record, it revealed that the last call was made by the present applicant from her mobile No. 9321571015 on the mobile phone of the deceased. Pursuant to which, inquiry was made with the applicant. After obtaining the call log details of the applicant's mobile, it was revealed that the applicant had made several calls to the other co-accused namely Priya, Akash and Rajesh, at the time of the incident and soon thereafter. Pursuant to the same, Akash was taken into custody for inquiry. During the interrogation of Akash, the name of the present applicant and other two accused namely Priya and Rajesh came to be disclosed. Pursuant to which, the present applicant and the other co-accused came to be arrested. The present applicant was arrested on 4<sup>th</sup> December, 2013 and co-accused Rajesh Tharur was arrested on 24<sup>th</sup> December, 2013. Akash was arrested on 4<sup>th</sup> December, 2013. It appears that co-accused Akash in his statement under Section 27 of the Evidence Act has disclosed that he will show the place where the dead body was thrown, pursuant to which, the body was recovered from the MIDC area at Ambernath. Accordingly, inquest was done. The police also seized the bed-sheet and blanket which was used to wrap the dead body from the spot, from where the dead body was recovered. There is a recovery of an iron rod, which is the weapon used in

the commission of the offence, also at the instance of the co-accused Akash.

5. Learned Counsel for the applicant submitted that the prosecution case rests on circumstantial evidence, and the material as against the present applicant is that she had shown the place of incident, where the deceased was assaulted by a weapon and it appears from the panchnama that a piece of carpet which was blood stained was recovered from the said spot shown by the applicant.

6. Learned Counsel for the applicant submitted that the piece of carpet which was seized, was not seized from the house of the applicant. He further submitted that there is no recovery of any article at the instance of the applicant. He submitted that for an amount of Rs. 1,20,000/- no person will commit such a ghastly act.

7. Learned A.P.P and the learned Counsel for the intervener opposed the bail application. They submitted that there is ample incriminating material as against the applicant, in the form of the CDR

records; statement of the neighbour Jyoti, who has stated in her statement that she heard some noise from the back side of the applicant's house at about 12:00 in the night; the statement of the tenant which disclosed that the keys of the house which belonged to the deceased, were kept with the applicant and the piece of carpet which was seized from the said house, was shown by the applicant. The said house of the deceased was adjacent to the applicant's house. The learned A.P.P further submitted that the deceased's sister had produced a diary written by the deceased to show that various amounts were advanced by the deceased to various persons, including the applicant and co-accused Priya.

8. Perused the papers of investigation. Although the prosecution case rests on circumstantial evidence, *prima facie*, there is sufficient material on record to show the complicity of the present applicant. It appears, that the last call was exchanged between the applicant and the deceased at 11:20 p.m.; that there was the motive for commission of the offence, as the applicant and the co-accused did not want to repay the amounts advanced by the deceased to them; the finding of the blood stained piece of carpet at the instance of the applicant; the finding of the dead body

and the weapon at the instance of the accused No.1 and more importantly, the CDR records which clearly shows, that calls were exchanged between the applicant and all the other co-accused from 21:27 on 24<sup>th</sup> November, 2013 to 1:45 a.m. on 25<sup>th</sup> November, 2013. The applicant (original accused No.2) and Priya (original accused No.3) had both taken a loan from the deceased and as they did not want to return the same, the applicant and the co-accused Priya hired co-accused Nos. 1 and 4 to kill the deceased. The CDRs which are placed on record, show a number of calls, incoming and outgoing which were exchanged between the parties at the relevant time. Considering that there is *prima facie* material as against the applicant and the seriousness of the offence, the applicant does not deserve to be enlarged on bail. The application is accordingly, dismissed. However, the trial is expedited.

9. In view of the disposal of the bail application, the intervention application No. 155 of 2015 does not survive. The same is disposed of accordingly.

**REVATI MOHITE DERE, J.**