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IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

CRIMINAL BAIL APPLICATION NO.2669 OF 2014

Kaustub Sanjay Sawant	...	Applicant
V/s.		
The State of Maharashtra	...	Respondent

Mr.Ravindra M. Sawant, for the Applicant.
Ms.PPShinde, APP for the Respondent – State.
PI. - Sawant, Malvani Police Station, Mumbai.

CORAM : REVATI MOHITE DERE, J.
DATED : 9th MARCH, 2015.

PC.

1. Heard learned counsel for the applicant and learned APP for the Respondent – State.

2. By this application, the Applicant seeks his enlargement on bail in connection with C.R.No.414 of 2013, registered with the Malvani Police Station, Mumbai, for the alleged offences punishable under Sections 302, 342, 395, 396, 201, 511, 120(B), 34 of the Indian Penal Code. The present applicant is working in an Ashram School.

3. According to the prosecution, the complainant- Chandrakant

Patil has alleged in his complaint that one Anil Marchande @ brother and Mahesh Koli were friends and that Anil had taken a loan of Rs.1,50,000/- and a gold necklace worth Rs.50,000/- from deceased - Jitendra, who was the son of the complainant. It is alleged that deceased - Jitendra had asked Anil to return back the aforesaid amount and article. However, as Anil was avoiding returning the same, he told accused no.1 – Mahesh Koli, about the demand for return of the aforesaid article and amount. On 8th November, 2013, at 11.30 p.m. deceased – Jitendra had informed his niece that accused no.1 – Mahesh Koli, had called him up stating that he will return the said amount of Rs.1,50,000/- and gold necklace and for that the deceased – Jitendra would have to come to his house. Accordingly, deceased – Jitendra, accompanied by co-accused – Silvestor Koli, went to the house of accused no.1 – Mahesh Koli at about 3.30 p.m. Thereafter, deceased - Jitendra's hands and legs were allegedly tied by three persons i.e the present applicant - Kaustub Sawant, Rajesh Patel and Najrat Bhatti. After the three left the spot, the alleged incident had taken place. The deceased is alleged to have died due to asphyxia. The dead body was found in the house of accused no.1 – Mahesh Koli, in a plastic gunny bag with hands and legs tied with a nylon rope. The deceased was found gagged with the help of waste cotton.

4. Learned Counsel for the Applicant contended that the only allegation as against the present applicant is that he along with two other co-accused had gone to the house of accused no.1 – Mahesh Koli and tied the hands and legs of the deceased and thereafter left the house. He submitted that the applicant was not aware of the purpose for which the hands and legs of the deceased – Jitendra, were directed to be tied by them. He relied on the statement of Smt.Joanna Bhuthello, wherein she has stated that the present applicant had gone to the house of accused no.1 – Mahesh Koli, along with his associates and thereafter had returned back.

5. Learned APP on the instructions of the investigating officer, who is present in Court states that apart from this material i.e. the present applicant along with the other applicants had gone and tied the hands and legs of the deceased and had left the spot thereafter, there is no material either, in the form of recovery or any other material as against the applicants.

6. Considering the material on record ; the fact that the

deceased had succumbed to his death subsequently, after the applicants had left the spot ; and the fact that the investigation is complete and charge-sheet is filed, the present Applicant deserves to be enlarged on bail on the following terms and conditions ;

ORDER

- i) The Applicant be enlarged on bail on furnishing P.R. Bond in the sum of Rs.25,000/- with one or two sureties in the like amount ;
- ii) The Applicant shall attend the Malvani Police Station, Mumbai, on first Saturday of every month, between 10.00 a.m. to 12.00 noon, till the conclusion of the trial;
- iii) The Applicant shall give his current address and telephone numbers to the Investigating Officer and if there is change in the address of the Applicant, the Applicant shall inform the concerned police station ;
- iv) The Applicant shall not tamper or attempt to influence any person concerned with the case ;
- v) The Applicant shall co-operate in the conduct of the trial ;

vi) It is made clear that if there is breach of any of the conditions as stated above, the prosecution shall be at liberty to seek cancellation of Applicant's bail.

7. The Application is allowed and disposed of in above terms.

8. The aforesaid observations are prima-facie, and the Trial Court shall decide the case on its own merits, in accordance with law, uninfluenced by the observations made in this order.

9. Parties to act upon an authenticated copy of this order.

(REVATI MOHITE DERE, J.)