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

CRIMINAL APPLICATION NO.5922 OF 2016

Datta Subhash Lohar,
Age: 29 years, Occc: Agri.,
R/o. Wagholi,
Tq. & Dist. Osmanabad. ..APPLICANT

VERSUS

The State of Maharashtra
(Through the Police Station
Osmanabad Rural, Tq. Osmanabad,
Dist. Osmanabad. ..RESPONDENT

Mr G.J. Kore, Advocate for applicant;
Mr V.S. Badakh, Add. Public Prosecutor for
respondent

CORAM : A.S. CHANDURKAR, J.

DATE : 28th NOVEMBER, 2016

ORAL ORDER :

Heard.

2. The applicant, who has been arrested on 16th June, 2016 in connection with Crime No. 174 of 2015 registered with Osmanabad (Rural) Police Station, District Osmanabad, for offences punishable under Sections 302, 201, 120(B) read

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with Section 34 of the Indian Penal Code, seeks his release on bail.

3. On 21st December, 2015 the owner of field Gat No. 108 lodged report stating that the body of an unidentified lady aged about 22 years was found in his well. On that basis, the aforesaid crime came to be registered. During the course of investigation, the applicant and two others came to be arrested.

4. It is submitted by the learned Counsel for the applicant that the case of the prosecution is based on circumstantial evidence and there was no eye witness to indicate the involvement of the present applicant. It is submitted that merely on the basis of call details indicating talk by the applicant with accused No.1, he has been implicated in the said offence. The deceased was having affair with accused no.1 and the applicant has no concern with the offence. He further submits that the clothes of the applicant are seized on

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memorandum and charge sheet been filed 8th September, 2016. On the aforesaid facts, the applicant seeks his release on bail.

5. The application is opposed by learned Additional Public Prosecutor by relying upon the first information report and the charge sheet. He submits that the statement of one Subhash Magar recorded on 21st June, 2016 indicates that he had seen the applicant talking on mobile in the evening on 19th December, 2015. He submitted that considering the seriousness of the offence, the application deserves to be rejected.

6. Perused the first information report as well as the charge sheet. The case of prosecution is based on circumstantial evidence. The prosecution is relying upon the call detail record of the applicant with accused No.1. The statement of Subhash Magar is of general nature and he does not state any overt act by the applicant. The clothes of applicant have already been seized. The

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report of Chemical Analyzer in that regard is inconclusive. Considering the fact that the only material against present applicant is in the form of call detail record and as charge sheet has been filed, I am inclined to release the applicant on bail.

7. For the aforesaid reasons, the following order is passed:-

(i) The applicant shall be released on bail, in connection with Crime No. 174 of 2015 registered with Osmanabad (Rural) Police Station, District Osmanabad, for offences punishable under Sections 302, 201, 120(B) read with Section 34 of the Indian Penal Code, on furnishing P.R. bond of Rs.15,000/-, with one surety in the like amount.

(ii) He shall not take any steps to tamper with the material collected by the prosecution.

(iii) He shall attend the Court of the learned

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Sessions Judge, Osmanabad on 15th of every month and as per directions of learned Sessions Judge.

8. It is clarified that the observations made in this order are only for the purpose for deciding present bail application.

9. Criminal Application is allowed on above terms and disposed of.

(A.S. CHANDURKAR, J.)

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