

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

**CRIMINAL APPLICATION NO. 6870 OF 2015
WITH
CRIMINAL APPEAL NO. 947 OF 2015**

Bapu @ Chhotu Namdev More,
Age : 27 years, Occu. Nil
R/o Talani Pilkhod,
Tq. Chalisgaon, Dist. Jalgaon
(at present Central prison Nashik Road)

...APPLICANT

versus

The State of Maharashtra

...RESPONDENTS

.....
Smt. R. R. Mane, Advocate for applicant (appointed)
Mr. P. G. Borade APP for respondent – State
.....

**CORAM : S.S. SHINDE, AND
K.K. SONAWANE, JJ.**

DATED : 23rd NOVEMBER, 2016.

Order :-

1. Heard learned counsel appearing for the applicant and learned APP appearing for respondent – State.
2. Learned counsel appearing for the applicant -appellant submits that prosecution case rests upon the circumstantial evidence, however, chain of circumstance is not complete. Though the prosecution has examined Guphabai (P.W.7), however she turned hostile. Nobody has seen the actual incident or assault by the appellant on deceased. Though prosecution witnesses have stated that the deceased was last seen in the company of the accused on 12-03-2014 and dead body of the deceased was recovered on 14-03-2014, however, the prosecution has not explained what happened during intervening period from 12-03-2014 till 14-03-2014.

3. Learned counsel for the applicant further relied on the evidence of the prosecution witnesses and submits that motive alleged by the prosecution and also evidence of the prosecution witnesses is not sufficient to sustain the conviction of the appellant, therefore, she submits that during pendency of the present appeal, the appellant deserves to be released on bail.

4. On the other hand, learned APP rely upon the findings recorded by the trial Court and evidence of the prosecution witnesses, in particular, evidence of witness (P.W.3) and Medical evidence and submits that the prosecution has proved the case beyond reasonable doubt against the applicant-appellant, therefore, application for bail may be rejected.

5. We have considered the submissions advanced by the learned counsel for the applicant-appellant and learned APP. After perusal of evidence of prosecution witnesses, in particular, witness (P.W.3) and medical evidence and also depositions of other prosecution witnesses, *prima facie*, we are of the opinion that findings recorded by the trial court cannot be said to be perverse or contrary to the evidence on record. We do not think it appropriate to elaborate on the evidence at this stage since appeal of the applicant-appellant is pending.

6. In this view of the matter, the application for bail stands rejected. The fees payable to the advocate appointed on behalf of the applicant-appellant is quantified at Rs. 3000/-.

Sd/-

[**K. K. SONAWANE, J.**]

MTK

Sd/-

[**S.S. SHINDE, J.**]