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IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
CRIMINAL BAIL APPLICATION NO. 211 OF 2016

Ambadas Shankr Koli
V/s.
The State of Maharashtra

.... Applicant

.... Respondent

Mr. V.V. Purvant, for the Applicant.
Mrs. Veera Shinde, APP for the Respondent State.

CORAM : A. M. BADAR, J.

DATE : 30th JUNE, 2016.

P.C. :

1. Heard the learned counsel for applicant and the learned APP for the State.
2. The leaned counsel for applicant argued that the prosecution has came up with contradictory version about the incident in question. He argued that during life time of deceased, he has not complained about the alleged illicit relations of present applicant with his wife. The learned counsel further argued that even as per prosecution case, deceased was insisting the applicant to marry with his daughter named Rekha.
3. According to the learned counsel, statements of witnesses show that the deceased was addicted to several vices and he was

indebted, therefore, the possibility of murdering him by somebody, in the village cannot be ruled out.

4. The learned APP by pointing out the statement of Shivanand Koli, has submitted that the present applicant had talk with Shivanand, who is relative of the deceased and informed him that deceased Dharmaraj @ Dharmanna has left the house and went somewhere else.

5. Perused the chargesheet. The report leading to registration of crime is lodged by Sou. Mahananda Pundalik Walikar, the sister of deceased Dharmaraj @ Dharmanna. According to prosecution case, applicant alongwith co-accused Suglabai Dharmaraj Koli @ Sushilabai had committed murder of Dharmaraj @ Dharmanna, in the night between 23.09.2015 to 24.09.2015 in the field of of Gundappa Dashrash Birajdar by smashing his head by means of stone and by administering poison to him. According to prosecution case, the deceased was murdered as he being the husband of co-accused Suglabai @ Sushila was creating hurdles in the illicit relations between Sushila @ Sugla and present applicant Ambadas Koli.

6. There are statements of witnesses, who have stated that the deceased Dharmaraj @ Dharmanna was highly indebted because of vices. Similarly statements of witnesses show that present applicant was having illicit relations with co-accused Suglabai @ Sushila, the wife of the

deceased. Witnesses are also stating that present applicant is relative of deceased and he was residing in the house of deceased.

7. On this backdrop, statement of daughter of the deceased becomes relevant. It shows that deceased Dharmaraj @ Dharmanna was insisting present applicant to marry with his daughter Rekha. It does not stand to reason that though the deceased is suspecting illicit relations between present applicant and his wife Sushila @ Suglabai, he will still insist the applicant to marry his daughter Kum Rekha.

8. Prosecution is also relying on postmortem report and learned APP argued that now Chemical Analyzer's report is received and deceased died because of poison. Some injury was found on head of deceased.

9. On this backdrop, the conduct of present applicant as shown by the learned APP reflected from statement of Shivanand Koli becomes relevant. Statement of Shivanand shows that at 2.31 a.m. on 24.9.2015, he received a phone from cellphone of Suglabai @ Sushila. The present applicant had talk with witness Shivanand from that cellphone. The present applicant reported Shivanand that Dharmaraj @ Dharanna went missing from house of Suglabai @ Sushila and she is weeping. As per statement of Shivanand, the present applicant had called said Shivanand. Thereafter at about 5.00 a.m., present applicant had been to the house of

Shivanand Koli and called him to ascertain the facts. It is worthwhile to note that Shivanand Koli is relative of the deceased.

10. The entire case of prosecution is based on the circumstantial evidence and there are no eye witnesses to the crime in question. The bonafide conduct of the present applicant as reflected from the statement of Shivanand Koli and as pointed out by the learned APP. The investigation is over. Considering the nature of evidence against the present applicant, his pre-trial detention is not warranted. Therefore following order.

Order

- I) The application is allowed.
- II) Applicant/accused arrested in connection with Crime No.153 of 2015, for offence punishable under Section 302, 201 r/w 34 of the Indian Penal Code, registered with Akkalkot North Police Station, District: Solapur, be released on bail on his executing P.R. Bond in the sum of Rs.10,000/- and on his furnishing surety in the like amount.
- III) The applicant shall not, directly or indirectly, make any inducement, threat or promise to any persons acquainted with the facts of the case so as to dissuade them from disclosing such facts either to the Court or to any police officer.
- IV) The applicant shall not tamper with the prosecution

evidence in any manner.

V) The applicant shall attend the trial scrupulously and cooperate the trial Court in expeditious disposal of trial.

[A. M. BADAR, J.]