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IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CRIMINAL APPELLATE JURISDICTION

CRIMINAL BAIL APPLICATION NO.332 OF 2016

Sumit Sunil More ..Applicant.

V/s.

State of Maharashtra ..Respondent.

Mr.A.P.Mundargi, Senior Advocate i/b. Sachin H.Deokar and
S.P.Borade for the applicant.

Ms.Veera Shinde, APP for respondent-State.

CORAM : A.M.BADAR, J.

DATED : 13TH JUNE, 2016

P.C. :-

1. Applicant / accused in Crime No.197/2015 for offence punishable under section 302 of the Indian Penal Code registered at Vishtrantwadi Police Station, Pune by this application is seeking bail.

2. Heard the learned senior counsel appearing for the applicant / accused. By taking me through the statements of residents of the building, the learned senior counsel argued that the alleged act of offence is attributable only to accused No.1 Rakhi and the present applicant being the landlord is in

no manner concerned with the assault on Chaitanya causing his death. The learned senior counsel further argued that though recovery of clothes of the deceased at the instance of the present applicant is made by the police, but the material collected during the course of investigation does not show that deceased was taken to the Sassoon Hospital in naked condition. The learned senior counsel, therefore, submitted that considering the nature of evidence against the present applicant, he is entitled for bail and his pre-trial detention is not warranted.

3. As against this, the learned APP submitted that there is confession of co-accused made to a witness which reflects the complicity of the applicant in commission of serious offence punishable under section 302 of the Indian Penal Code and, therefore, the applicant is not entitled for bail. She further contended that there is other evidence corroborating the prosecution case.

4. Perused the charge-sheet. It is seen that accused No.1 Rakhi had taken her son Chaitanya Tarun Balpande to Sassoon Hospital in the night hours with a history that he

suffered a fall in the bathroom. Chaitanya was declared dead on arrival and the attending Doctor noticed several injuries on the dead body. Accordingly, information was given to police. Post Mortem examination on dead body of Chaitanya was conducted. It was found that Chaitanya had suffered ante mortem injuries on his body and the post mortem report shows that death of Chaitanya was homicidal.

5. Priyanka Sanjay Kadam, is an Advocate by profession and her statement shows that on 5th August, 2015 in night hours accused Rakhi accompanied by the applicant Sumeet came to her house. Accused Rakhi made a confessional statement to Priyanka Kadam to the effect that she as well as the applicant Sumeet had assaulted Chaitanya and requested her to guide them as to what should be done in the matter. Statement of Priyanka Kadam shows that accused Rakhi started weeping and, therefore, she advised Rakhi to take Chaitanya to the hospital. That is how the deceased was taken to the hospital by accused Rakhi and the present applicant.

6. Statements of Salim Kasim Sayyad and Faiyyaz Pasha goes to show that thereafter the present applicant

accompanied by accused Rakhi took Chaitanya to Sassoon Hospital where he was declared dead.

7. Statement of several residents of the building show that deceased Chaitanya had disclosed to them that his mother i.e. accused No.1 and present applicant used to assault him repeatedly.

8. Statement of Nila Mankar - the mother of Rakhi shows that it was the present applicant who was instrumental in driving her (Nila Mankar) out of the flat rented by him to accused Rakhi. Charge-sheet reflects the extra marital affairs of Rakhi with the present applicant and the couple was repeatedly visiting lodge to stay together. Prima facie, it appears that in order to get rid of Chaitanya, the couple had committed his murder by assaulting him. Injuries found on the dead body in the post mortem examination goes to show that Chaitanya was assaulted with an intention of causing his death. Hence the charge-sheet reflects complicity of the applicant in a case punishable with life imprisonment. As such no case for bail is made out. Hence the application is rejected.

(A.M.BADAR, J.)