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IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

BAIL APPLICATION NO. 373 OF 2016

Pravin Pandurang Talvatkar

..Applicant.

Vs.

The State of Maharashtra

..Respondent

Mr. Prashant Gurav for Applicant.

Mr. Deepak Thakare, APP for State.

CORAM: A.S. GADKARI, J.

DATE : 29th September 2016.

P.C.

1 This is an application under Section 439 of Cr. P.C. for bail in CR No.360 of 2013 registered with Katurba Marg Police Station, Mumbai dated 28.11.2013 under Section 302, 328 and 201 of the Indian Penal Code.

2 The name of deceased is Smt. Sarla Ahire. The approximate date of incident is 28.11.2013. The first information report is lodged by the Police Constable Shri Arvind Uttekar against an unknown person. It is stated in the first information report that the dead body of a woman aged 25

to 30 years was found in the jungle of Kanheri Caves, National Park, Mumbai. There were injuries on the throat of the said body. The first information report is therefore lodged against the unknown persons. During the course of investigation, the police arrested the applicant on 5.12.2013 and after completion of investigation filed chargesheet.

3 It is the case of the prosecution that the applicant was having extra marital relationship with deceased Smt. Sarla Ahire. That the deceased was insisting the applicant to marry with her. That the applicant being fade-up with said insistence of the deceased, took her to National Park for a stroll, gave her an injuction of stupifying chemical i.e. Depin-10 and after she became unconscious, the applicant slit her throat with sharp edged cutter. The prosecution has propounded mainly two circumstances against the applicant, firstly last seen together and secondly recovery of an injuction syringe and cutter at the instance of the applicant as contemplated under Section 27 of the Evidence Act.

As far as the recovery of injuction-syringe and cutter used in the crime is concerned, there is no signature of the applicant on the recovery panchanama dated 6.12.2013 effected at the instance of the applicant and therefore prima facie it is difficult to accept the said recovery. As far as the circumstance of last seen together is concerned, the witness

Shivkumar Kandu in his statement dated 16.12.2013 has stated that on 27.11.2013 he had seen the applicant in the company of the deceased at about 3.30 p.m. The dead body of Smt. Sarla Ahire was noticed by the people/police on 28.11.2013 at about 9.00 a.m.. It is to be noted here that the statement of the witness Shivkumar Kandu is recorded by the police on 16.12.2013 i.e. approximately after 20 days from finding of the dead body of Smt. Sarla Ahire. It prima facie appears that no plausible explanation regarding the belated recording of the statement of the alleged witness is offered by the prosecution.

4 In view of the above, the applicant has made out a case for his release on bail.

Hence, the following Order:

- (i) The applicant be released on bail in CR No.360 of 2013 registered with Katurba Marg Police Station, Mumbai on his furnishing PR bond of Rs.25,000/- with one or two solvent local sureties in the like amount.
- (ii) After his release from the jail, the applicant shall attend the Kasturba Margr Police Station, Mumbai on every alternate Monday between 11.00 a.m. to 2.00 p.m.
- (iii) The applicant shall attend all dates before the Trial Court.

(iv) Any two consecutive defaults in complying with the aforesaid conditions, shall attract the provisions of cancellation of bail.

(v) The applicant shall not tamper with evidence and/or influence the prosecution witnesses.

5 The Application is allowed in the aforesaid terms.

(A.S. GADKARI,J.)