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IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CRIMINAL APPELLATE JURISDICTION

CRIMINAL BAIL APPLICATION NO.578 OF 2016

Javed Rasul Mullani ..Applicant.

V/s.

State of Maharashtra ..Respondent.

Mr.Amin Solkar for the applicant.

Mrs.Veera Shinde, APP for respondent-State.

CORAM : A.M.BADAR, J.

DATED : 11TH JULY, 2016

P.C. :-

1. The applicant / accused in Crime No.83/2016 for offence punishable under section 302 read with 34 of the Indian Penal Code registered with Hupari Police Station, Kolhapur by this application is seeking his releae on bail.

2. Heard the learned counsel for the applicant and the learned APP. The learned APP submitted that the applicant / accused was relative of Minaz and deceased was having evil eye on said Minaz. The learned APP further argued that in order to get rid of the trouble to his aunt Minaj, applicant

along with co-accused had murdered Shanur Sikandar Mujawar. The learned APP further argued that the applicant had pointed out the place from where the weapon of offence was brought by him and the co-accused.

3. Perused the charge-sheet. On 1st October, 2015 dead body of Shanur Sikandar Mujawar was found lying in the power-loom of his father Sikandar Mujawar. F.I.R. came to be filed against unknown persons by Sikandar Mujawar. The post mortem report shows that the death of Shanur Sikandar Mujawar was homicidal death.

4. During the investigation, from the house of the deceased a chit probably written by the deceased to said Minaz as well as photograph of said Minaz came to be seized. According to the prosecution case, the applicant / accused is having motive to commit the murder of Shanur Sikandar Mujawar and for this purpose statement of one Nanaji is pointed out.

5. Perusal of charge-sheet prima facie does not show that the present applicant was in company of the deceased.

Nothing came to be recovered at his instance. Even on the clothes seized from the present applicant by the Investigating Officer, stains of blood were not found. The so-called discovery is of the place from where iron rod was obtained. Statement of Minaz goes to show that deceased Shanur Sikandar Mujawar was making gestures at her and this act was seen by the present applicant.

6. Considering this nature of evidence against the present applicant his pre-trial detention is not warranted and, therefore, the order :-

- (i) The applicant / accused in Crime No.83/2016 for the offence punishable under section 302 read with 34 of the Indian Penal Code with Hupuri Police Station, Kolhapur be released on bail on executing P.R. bond in the sum of Rs.10,000/- with one or more surety in the like amount;
- (ii) The applicant / accused shall not directly or indirectly make any inducement, threat or promise to any person acquainted with the facts of accusation against him so as to dissuade him / her from disclosing such facts either to

the Court or to any police officer and that he shall not tamper with the evidence;

- (iii) The applicant / accused shall co-operate for expeditious disposal of the trial;
- (iv) The applicant / accused shall not commit an offence similar to the offence of which he is accused or suspected of commission;
- (v) The application is disposed of accordingly.

(A.M.BADAR, J.)