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**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
CRIMINAL BAIL APPLICATION NO. 740 OF 2016**

Deepak Dnyandev Ghongade

...Applicant

Versus

The State of Maharashtra

...Respondent

Ms.Anita A. Agarwal, for the Applicant

Ms.Veera Shinde, A.P.P for the Respondent-State

API – S.R.Shinde, Bharati Vidyapeeth Police Station, Pune.

CORAM : REVATI MOHITE DERE, J.

DATE : 2nd MAY, 2016

P.C. :

1. Heard learned Counsel for the applicant and the learned A.P.P.
2. By this application, the applicant seeks his enlargement on bail in connection with C.R. No. 235 of 2015, registered with the Bharati Vidyapeeth Police Station, Pune, for the alleged offences punishable under Sections 302 and 201 of the Indian Penal Code.
3. The complainant - Shivaji S.Jambhale, is the landlord of the

flat/premises, where the deceased was residing with the applicant and their one year old child. The said flat/premises was taken on rent by the deceased. The applicant and the deceased were in a live-in relationship. It is alleged that subsequently, the relations between the applicant and the deceased got strained and the deceased was residing alone in the said flat. According to the complainant, his wife – Babita went to handover the electricity bill to the deceased on 13th July, 2015, at about 12.30 p.m. As she did not received any response, she went into the house which was open, and saw the deceased lying in the bathroom; that all the articles in the house were scattered and found the cupboard was open. Accordingly, she informed the complainant and others, pursuant to which the deceased was taken to the Sasoon Hospital, Pune. The deceased had suffered an incised wound on her neck and other injuries and succumbed to the same on 18th July, 2015.

4. Mrs. Agarwal, learned counsel for the Applicant contended that the prosecution case rests entirely on circumstantial evidence and there is no material to connect the applicant with the alleged offence. She submitted that the applicant and the deceased were in a live-in relationship

and therefore the presence of the applicant, on a day prior to the incident i.e. on 12th July, 2015 was not unnatural. She submitted that the statement of the witnesses show that there was a bleeding wound. According to her, considering the manner in which the deceased was lying and the condition of the house, it was a case of robbery and attempted rape. She submitted that the statement of Sunita Aher shows that the articles in the house were lying on the floor and that the cupboard was open and that the deceased's saree was not in a proper condition. According to her, the applicant was not responsible for the said act and that someone had come into the house and had committed the alleged offence. According to the learned counsel, no motive has come on record to show that the applicant had any motive to cause the alleged offence.

5. Learned APP vehemently opposed the bail application. She relied on the statement of Raju Shaikh, Suvarna, Sunita to show that on 12th July, 2015, the applicant was last seen in the company of the deceased from 4.30 p.m. when he purchased the eggs, which was witnessed by Raju Shaikh and thereafter at 7.00 p.m. by Sunita and Suvarna. She also relied on the statement of Sajanbi Shaikh, a friend of the deceased. She submitted

that Sajanbi's statement shows that the applicant's cousin (Ganesh) had called her, and asked her about the deceased and had disclosed to her, that the applicant had gone to kill the deceased. Learned APP however, fairly adds that Ganesh in his statement, has not stated the aforesaid. According to the learned APP, the statement of Aparna Abhang, which is on page 162 of the application shows that 4 months prior to the incident, the applicant had got married for the second time to somebody else and that there was a settlement which was arrived at, between the applicant and the deceased. She further submitted that there is recovery of a blood stained Sura, at the instance of the applicant and that several documents were also recovered at his instance, which he had taken from the house. She submitted that all these documents i.e. ration card, birth certificate, court papers and certain other documents, are set out on page nos.79 and 80 of the application. She submitted that the CDR record also shows that the applicant was in the same locality from 11th July to 12th July, 2015 upto 7.30 p.m. She further submitted that there is an injury certificate which is on page 48 of the application, which shows, that the applicant had received injuries, which are stated to be within 2 to 5 days. According to the learned APP, the applicant had a strong motive to do away with the deceased. She

submitted that the condition in which the body was found i.e. with her saree up to her knees, was because the deceased had gone to the toilet to answer the call of the nature, when the alleged incident took place.

6. Perused the papers. No doubt, the prosecution case rests on circumstantial evidence, but prima-facie, there are sufficient circumstances to show the complicity of the applicant. Apart from the circumstance of last seen against the applicant, there is recovery of a blood stained Sura, deceased's mobile and documents which he had taken from the house. There are CDR records which show that the applicant was in the said locality prior, to the incident and the postmortem report shows throat injury and throttling. The injuries sustained by the deceased are 8 in number; 2 stitched wound present over front of neck and stitched wound over left side of the neck, removal of stitch, incised wound of size 02 cms X 0.5 cm X muscle deep, abrasion over lateral aspect of left side of neck ; abrasion over right ala of nostril, abrasion over lateral aspect of upper third of right arm, abrasion present over lateral aspect of middle third of right arm, multiple abrasions present over back of left elbow, abrasion over left side of chest. The probable cause of death is stated to be 'complication following cut

throat injury and throttling'. Statement of witnesses show that the applicant would visit deceased, though they had separated and that the deceased was last seen in the company of the applicant.

7. Considering the material on record, this is not a fit case to enlarge the applicant on bail.

8. Hence, the Application for bail is rejected and disposed of as such.

9. Needless to observe that the trial court shall decide the case on its own merits uninfluenced by the observations made in this order.

REVATI MOHITE DERE, J.