

nsc.

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
CRIMINAL BAIL APPLICATION NO.871 OF 2016**

Mukesh Sukrya Bhandari

...Applicant

Versus

The State of Maharashtra

...Respondent

Mr.Kabul Singh Labana, for the Applicant

Ms. Rutuja Ambekar, A.P.P for the Respondent-State

CORAM : REVATI MOHITE DERE, J.

DATE : 7th JULY, 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. I – 139 of 2015, registered with the Bhiwandi Taluka Police Station, for the alleged offences punishable under Sections 302, 201 of the Indian Penal Code.
3. The complainant is the mother of the deceased – Amisha. She has alleged that the applicant met Amisha some time in 2013 and that in

August 2013, the applicant proposed to her. She has alleged that thereafter, as the applicant started avoiding marriage, her daughter lodged a complaint/FIR, alleging an offence punishable under Section 376, as against the applicant. She has further stated that the said case was compromised and on 12th April, 2015, the applicant got married to her daughter in a temple, in their presence. She has stated that at that time, the deceased was two months pregnant. According to the complainant, thereafter the applicant refused to take her home and hence Amisha was residing with them. She has further stated that the applicant promised Amisha, that he will take her home after Diwali. On 8th June, 2015, a quarrel took place between Amisha and her father and hence Amisha called the applicant and disclosed to him that she did not want to stay in her parents house and asked the applicant to take her home. According to the complainant, the applicant came home. Thereafter, Amisha left home at about 8.00 p.m. and was followed by the applicant. She has stated that Amisha met Pankaj Mhatre and even took a sum of Rs.200/- from her sister. She has further stated that she learnt, that Amisha had gone with Pankaj Mhare to Kalyan Railway Station and that the applicant had followed Amisha and Pankaj upto the Railway Station. She has stated that

at about 11.30 p.m., she spoke to Amisha and the applicant on their respective mobile phones. She has stated that she learnt that Amisha was with the applicant in his jeep. She has also stated that she spoke to her daughter – Amisha on the applicant's mobile phone. She has alleged that on 9th June, 2015 at about 1.30 hrs, the applicant called her and disclosed to her that Amisha in a fit of anger had got down from his vehicle and had taken a rickshaw, stating that she was going to her parent's house. She has stated however her daughter did not turn up. Thereafter, the applicant along with the complainant and other family members went in search of Amisha on 9th June, 2015. On 15th June, 2015, she learnt that her daughter was murdered. She has alleged that the applicant was responsible for the same, pursuant to which the aforesaid complaint was lodged, alleging the aforesaid offences.

4. Learned Counsel for the applicant submitted that there is no material to connect the applicant with the alleged offences. He submitted that the deceased was with Pankaj Mhatre and that there was nothing to show that the applicant was last seen with the deceased. He submitted that there are no CDR records produced by the prosecution in support of the

same. He further submitted that the blood stained stump recovered at the instance of the applicant is from an open space. According to him, the applicant was arrested on the intervening night of 15th and 16th June, 2015 and recovery of the jeep is shown at the instance of the applicant, when infact the jeep was parked in the police station.

5. Learned APP opposed the bail application. She submitted that there is ample circumstantial evidence against the applicant. She submitted that the evidence of Kalpana Mhatre (mother of the deceased) and Pankaj Mhatre shows that the applicant was last seen in the company of the deceased. She submitted that there is a recovery of a blood stained stump and jeep at the instance of the applicant.

6. Perused the papers. The statement of Kalpana Mhatre (mother of the deceased) shows that she had last spoken to the deceased on the applicant's mobile, which shows that the deceased was with the applicant on 8th June, 2015 at about 11.30 p.m. The statement of Sanika Mhatre (Sister of the deceased) also shows that the applicant was following the deceased in his jeep. The statement of the rickshaw driver shows that the

applicant had disclosed that his wife had in a fit of anger got down from the jeep and taken a rickshaw. There is recovery of a blood stained stump at the instance of the applicant. The jeep which was seized shows that there was blood in it and hence the seat cover was sent to the chemical analyzer.

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. It is made clear that the observations made herein are *prima facie* for deciding the aforesaid application, and the trial Court shall decide the case on its own merits, in accordance with law, uninfluenced by the observations made in this order.

REVATI MOHITE DERE, J.