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IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
CRIMINAL BAIL APPLICATION NO.1147 OF 2016

Dadarao Ramling Salunkhe ..Applicant.

V/s.

State of Maharashtra ..Respondent.

Mr.JaydeepD. Made for the applicant.

Mr.J.H. Ramugade, APP for respondent-State.

CORAM : A.M.BADAR, J.

DATED : 15TH JUNE, 2016

P.C. :-

1. The applicant / accused in Crime No.55/2016 for the offence punishable under section 302 read with 34 of the Indian Penal Code registered with Vairag Police Station, District Solaour at the instance of Surekha Kashinath Salunkhe by this application is praying for releasing him on bail.

2. Heard the learned counsel for the applicant. According to the learned counsel for the applicant the entire case is based on circumstantial evidence, motive is absent and the circumstances tilts in favour of the applicant. He

further argued that statement of witnesses that though they had attended the spot was recorded after so many days and therefore, evidence of the prosecution is too weak to infer the offence punishable under section 302 of the Indian Penal Code. According to the learned counsel for the applicant, alcohol was found in the stomach contents of the deceased. The learned counsel submits that since dispute on ancestral property was going on between the deceased as well as the accused persons and during the pendency of that dispute the deceased sold some portion of land to third person. As the deceased was not getting relief from the Civil Court, he had incurred huge debt and, therefore, he might have committed suicide.

3. The learned APP opposed the application.

4. Perused the charge-sheet. The Informant Surekha Kashinath Salunkhe in her F.I.R. lodged on 29th February 2016 pointed finger of accusation against the present applicant and other accused persons for the reasons that they were having dispute with deceased Kashinath since last three years and the cause of that dispute was cultivation of agricultural land

as well as watering the land.

5. As husband of the informant did not return home on 28th February, 2016, informant Surekha accompanied by her son Kishore and servant Rafiq went to their field for searching him. She found dead body of her husband Kashinath hanging to one tree by means of a rope and the other end of that rope was found to be tied to another Neem tree. The spot panchanama also shows that the dead body was hanging by one tree and the other end of the rope was tied to another tree. The situation prevalent on the spot as such, *prima facie*, rules out the possibility of suicidal hanging.

6. Statement of Rameshwar Pawar and Shivaji Tambre shows that at about 9.15 p.m. on 28th February, 2016 the present applicant as well as other accused persons were quarrelling with Kashinath Salunkhe (since deceased). Their statements further show that this incident had happened at the field of the deceased. Within two hours of this incident of quarreling by applicant, dead body of Kashinath was found hanging by the tree. It is thus seen that the time gap between the deceased seen alive in the company of the present

applicant and other accused and the time when he was seen dead was so short that in all probability none else but the applicant and co-accused must have committed his murder. So far as the motive is concerned, the order of Additional Sessions reflects that several offences came to be registered against accused persons at the instance of deceased Kashinath. He had also filed his private complaint against accused persons in the Court of the J.M.F.C. As such, prima facie, it cannot be said that this case based on circumstantial evidence of last seen theory is bereft of motive.

7. Prima facie, complicity of the applicant in the crime in question punishable with death or life imprisonment is well well established and, therefore, the order.

The application is rejected.

(A.M.BADAR, J.)