

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE SIDE**

BAIL APPLICATION NO.1168 OF 2016

Prashant Ramchandra Bagwe ... **Applicant**

V/s.

The State of Maharashtra ... **Respondent**

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Mr.Swapnil N. Inamdar, Advocate for the Applicant.

Mr.S.H.Yadav, APP for the Respondent/State.

Mr.S.B.Jadhav, IO, PI Kasturba Marg Police Station is present in person.

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CORAM : P. N. DESHMUKH J.

DATED : 3rd AUGUST 2016.

P.C.

1 Heard learned counsel for both sides.

2 Accused involved in Crime No.327 of 2015 registered by Kasturba Marg Police Station for the offence punishable under Section 306 read Section 34 of the Indian Penal Code, has sought bail.

3 The learned counsel for the applicant has submitted that investigation is complete and charge-sheet is filed in the Court, and even the trial is said to have commenced, and has contended that from the entire charge-sheet, there is nothing to establish that applicant is anyway responsible for commission of suicide of deceased Girish on 15/10/2015. It is also contended that co-accused Hansaben, who is wife of deceased is already released on bail and the case of applicant, and that of co-accused are based on same footings. By inviting attention to the chit on record, alleged to have been written by

deceased, it is further submitted that in fact from contents thereof, it cannot be said that applicant is in any manner involved in this case, as his surname is also not mentioned correctly. It is, therefore, prayed that application be allowed even on the ground of parity.

4 With reference to chit on record, the learned Additional Public Prosecutor, on instructions from the Investigating Officer today, makes a statement that at the time of hearing of bail application of co-accused on 25th June 2016, statement was made that the chit involved in this Crime produced by nephew of complainant, one day after the incident, is not forwarded to handwriting expert, however, states that such statement was made, as chit was already forwarded to the Expert of which opinion is erroneously made, is on record.

5 Perused the documents filed with the application wherefrom it reveals that report is lodged by the sister of deceased, who has committed suicide in his house by hanging, as it is stated that his wife i.e. co-accused Hansaben was having illicit relations with applicant since two years prior to incident. It also reveals that on one occasion, in the night, deceased has seen his wife with applicant on the loft in the house, and thereafter divorce proceedings were initiated between them, which were subsequently withdrawn, as his wife assured deceased that she shall not continue with such relations, however, continued with the same.

6 On considering the contents of report, as aforesaid, it is material to note that for a period of two years, no report was lodged by

the deceased against his wife Hansaben. Though one chit came to be recovered as produced by nephew of complainant, one day after the incident, on perusal of contents thereof, surname of applicant appears to be wrongly mentioned therein. Similarly, the handwriting expert's opinion also did not substantiate case of prosecution, in as much as, there is no definite opinion given by the Expert, if the writing of the chit is of deceased. Admittedly, applicant had no occasion to stay with the deceased, who is resident of Borivali and as such, there is nothing on record to establish that immediately prior to deceased committing suicide by hanging, he was instigated or abetted by applicant to commit said act.

7 In view of above said facts and as trial has already said to have commenced, and also that co-accused is released on bail by this Court, application is liable to be allowed as per order below:

- (i) Applicant shall be released on bail on his executing personal bond in the sum of Rs.20,000/- with one surety in the like amount and in the event of his inability to furnish surety, he shall be released on bail on his furnishing cash security of Rs.20,000/- and shall furnish surety within one month thereafter.
- (ii) While on bail, applicant shall mark his presence with Kasurba Marg Police Station on each Sunday between 10.00 a.m. to 1.00 p.m. and shall attend the trial Court on the fixed date.

8 Learned trial Court shall not get influenced with any of the observations as above, while considering the evidence and decide the case independently

(P. N. DESHMUKH J.)