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IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

BAIL APPLICATION NO. 1687 OF 2015

Bhau Tukaram Shiswe ..Applicant.

Vs.

The State of Maharashtra ..Respondent.

Mr A.P.Mundargi, Senior Advocate a/with Jayant Bardeskar, for the applicant.

Ms P.P.Shinde, APP for the State.

CORAM : A.S.GADKARI, J.

DATE : 12th January, 2016

PC.

1) The applicant is seeking bail in CR No. 299/2014, dated 16/11/2014 registered with Kalyan Taluka Police Station, District Thane under section 302 read with section 34 of the Indian Penal Code.

2) It is the case of the prosecution case that on 15.11.2014 at about 11:45 p.m. when the deceased Dasharath Bherle along with his friend Madhukar Bherle were proceeding towards his house to village Apti Borhe, post Waholi, Taluka Kalyan, the applicant along with co-accused Murlidhar Mhaskar committed the murder of deceased Dashrath. The motive behind the crime as propounded by the prosecution is that the

applicant was having extra marital affair with the sister-in-law of the deceased Dasharath and the deceased Dasharath was objecting the same. The first information report was lodged on 16.11.2014. The applicant was arrested on 12.12.2014. The present case is based on circumstantial evidence. After completion of investigation the Police have now filed the charge-sheet.

3) The learned counsel for the applicant submitted that co-accused Murlidhar Namdev Mhaskar has been released on bail by this Court by an order dated 15.12.2015. The role attributed to the applicant is same and similar and therefore, the principle of parity is squarely applicable. The learned APP, on the other hand, submitted that in the present crime, motive revolves around the applicant and i.e. the additional point against the applicant. It is to be noted here that prima facie apart from the alleged motive behind the crime there is no other legal evidence available on record. The case is fully based on circumstantial evidence and the alleged eye-witness has given two different versions in his two statements. The applicant is arrested on 12.12.2014. The charge-sheet is already filed. It appears from the record that there is no other evidence apart from the above circumstances mentioned herein above. In view of the same, I am inclined to grant the bail to the applicant.

Hence, the following order;

:ORDER:

- (a) The applicant shall be released on bail in CR No. 299 of 2014 registered with Kalyan Taluka Police Station, District Thane on his furnishing a P.R. bond of Rs.25,000/- with one or two solvent sureties in the like amount;
- (b) The applicant shall attend the Kalyan Taluka Police Station on every first Monday of the month between 10:00 a.m. to 12:00 noon till the conclusion of the trial;
- (c) As the prosecution has expressed the apprehension that after release from jail, the applicant may tamper with the prosecution witnesses, the applicant is hereby directed not to enter the territorial jurisdiction of Post Waholi, taluka Kalyan, till the conclusion of the trial;
- (d) The applicant shall not tamper with the evidence and/or influence the prosecution witnesses;
- (e) The application is allowed in the aforesaid terms.

(A.S. GADKARI, J.)