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**IN THE HIGH COURT OF JUDICATURE AT BOMBAY  
CRIMINAL APPELLATE JURISDICTION  
CRIMINAL BAIL APPLICATION NO. 1859 OF 2015**

Ganesh Shankar Shelke

...Applicant

Versus

The State of Maharashtra

...Respondent

Mr.A.H.H.Ponda, i/b Mr.Harshwardhan Akolkar, for the Applicant

Mr.D.P.Adsule, A.P.P for the Respondent-State

ASI – S.M.Hande, Ghodegaon Police Station, Pune.

***CORAM : REVATI MOHITE DERE, J.***

***DATE : 21<sup>st</sup> MARCH, 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. 22 of 2015, registered with the Ghodegaon Police Station, Pune, for the alleged offences punishable under Sections 302, 120B and 201 of the Indian Penal Code.
3. The incident in question has taken place on 20<sup>th</sup> March, 2015.

The first informant is Bhanudas Nanaso Pawar, API – Ghodegaon Police Station, Pune. According to him, he received information from one Umesh Abhang that one person was lying dead within the limits of Village Kotmadara at Kurwandi. Pursuant to the said information, API- Pawar went to the spot and thereafter lodged an FIR as against some unknown persons.

4. Learned Counsel for the Applicant states that the entire prosecution case rests on circumstantial evidence and that there is no material to connect the applicant with the alleged offence. He submitted that there is no recovery of any weapon/clothes, under Section 27 of the Evidence Act, as against the present applicant. He submitted that the deceased was a history sheeter, against whom several cases were pending and hence the deceased had many enemies. He submitted that the CDR record, collected by the prosecution shows, that the accused no.11 – Ashwin Suryakant Bhandalkar was in touch with the present applicant, who in turn, was in touch with the prime accused no.1. According to him, this cannot be said to be an incriminating circumstance, inasmuch as, there was a monetary transaction between the applicant and accused no.1. He

submitted that the applicant had loaned an amount of Rs.50,000/- to accused no.1 and that the accused no.1 had promised to return the said amount, around the said time i.e. 18<sup>th</sup> March, 2015. He relied on page 307 of the application, in support of his submission i.e. on the Kararnama. He submitted that as the said amount was not returned, the applicant was in touch with the accused no.1. He further submitted that co-accused no.11 has been enlarged on bail, by this Court vide order dated 8<sup>th</sup> February, 2016. According to him, the allegation as against accused no.11 – Ashwin Bhandalkar was that he had hatched the conspiracy to avenge the murder of his brother. He submits that the applicant had absolutely no motive to cause the alleged offence.

5. Learned APP does not dispute the fact, that apart from the CDR records, there is no material to connect the applicant with the alleged offences.

6. Perused the papers. Admittedly, the prosecution case rests on circumstantial evidence and there is no evidence of recovery or last seen, qua the present applicant. It appears that accused no.11 – Ashwin

Bhandalkar has been enlarged on bail, vide order dated 8<sup>th</sup> February, 2016. The learned counsel for the applicant has relied on a 'Kararnama' to show that there was some monetary transaction between him and accused no.1, and hence the applicant was in touch with the accused no.1, for return of Rs.50,000/-. The authenticity of this document cannot be considered at this stage. Prima-facie, the only material, qua the present applicant is the CDR Report. The applicant has two antecedents which are similar in nature, one registered in the year 2009 and the other in 2010. It is not disputed by the learned APP that even the accused no.11, who was enlarged on bail, had two antecedents.

7. Considering the aforesaid and in the peculiar facts of this case, the applicant is enlarged on bail on the following terms and conditions :

**ORDER**

- (i) The applicant be enlarged on bail, on executing PR Bond in the sum of Rs. 50,000/- with one or two solvent sureties in the like amount;
- (ii) The applicant shall attend the concerned Police Station, on the first Saturday of every month between 10:00 a.m. to 11:00 a.m., till

the conclusion of the trial;

(iii) The applicant shall not tamper or attempt to influence or contact the complainant, witnesses or any person concerned with the case;

(iv) The applicant shall inform his latest place of residence and mobile contact number immediately after being released and/or change of residence or mobile details, if any, from time to time to the Court seized of the matter and to the Investigating Officer of the concerned Police Station;

(v) The applicant shall not leave Pune District, without the permission of the learned Sessions Judge, Khed, for a period of six months, after his release ;

(vi) The applicant to cooperate with the conduct of the trial;

(vii) An undertaking to the aforesaid clauses (ii) to (vi) shall be filed by the Applicant, in the Trial Court, within two weeks after his release.

8. The Application is allowed in the aforesaid terms and is accordingly disposed of.

9. It is made clear, that the observations made herein are *prima facie*, and the trial Court shall decide the case on its own merits, in accordance with law, uninfluenced by the observations made in this order.
10. All concerned to act on the authenticated copy of this order.

**REVATI MOHITE DERE, J.**