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IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

BAIL APPLICATION NO.2067 OF 2015

Firoz Abdul Sakur Khan

..Applicant

Vs.

The State of Maharashtra

..Respondent

Mr. K.T. Bubu i/b Sachin Borhade for applicant.

Ms. S.D. Shinde, APP for the State.

CORAM: A.S. GADKARI, J.

DATE : 8th January 2016.

P.C.

1 The applicant is seeking bail in CR No.I-158 of 2014 registered with Kasa Police Station, Thane (Rural) on 27.11.2014 under Sections 302, 394, 328 and 411 of the Indian Penal Code.

2 The first information report dated 27.11.2014 is registered by the Police Head Constable Shri Trembak Bhonar attached to Kasa Police Station. On 27.11.2014 at about 8.00 a.m. a dead body of an unknown person was found at the border of the road going to Gujarat. In the premise the police lodged the first information report at the behest of the State.

3 During the course of investigation, it was revealed that the

name of the deceased was Prakah Shinde. It was also revealed that the motor namely Bolero Pick Up Van bearing No.MH-04-8992 which the deceased was possessing was not traceable. The father-in-law of the deceased informed the said fact to the police. The police submitted report to the J.M.F.C., Dahanu on 28.11.2014 thereby adding Sections 302 and 394 to the original crime. It was also revealed that the applicant initially contacted deceased for hiring his Bolero Pick up van and after getting inside the said vehicle, the applicant administered stupifying substance to the deceased and subsequently committed his murder and took away the said vehicle. After completion of the investigation, the chargesheet is filed.

5 The learned Counsel for the applicant submitted that, the prosecution case that the applicant administered stupifying substance to the deceased, is not supported by the Chemical Analyser's report and therefore the applicant cannot be charged under Section 302 of the Indian Penal Code. He submitted that the applicant is in the custody since 1.1.2015.

The learned APP on the other hand opposed the present application and submitted that the Bolero pick up van belonging to Prakash Shinde, the deceased, was discovered at the instance of the applicant from the co-accused Ganesh Waghmare by effecting discovery panchanama dated 2.1.2014 under Section 27 of the Evidence Act. She submitted that

the said fact shows the clear complicity of the applicant in the present crime. She further submitted that the applicant does not have fix place of residence in Maharashtra and he hails from the State of U.P. If the applicant is released on bail, there is every possibility that he will flee from the ends of justice. The learned APP further pointed out that the applicant is also involved in two other crimes namely CR No.146 of 2014 registered with Ghoti Police Station under Section 406 of the Indian Penal Code and CR No.208 of 2014 registered with Bhilad Police Station, Gujrat under Section 379 of the Indian Penal Code.

6 I have perused the entire chargesheet annexed to the present application. Though it appears that the Chemical Analyser's report does not support the prosecution case to the effect that some stupefying substance was administered to the deceased by the applicant. However, it is to be noted here that the Bolero pick up van having original registration no.MH-04-8992 was discovered at the instance of the applicant from co-accused Ganesh Waghmare and at the time of discovery it was revealed that the accused persons had changed the registration number of the said vehicle from MH-04-8992 to GJ-19-9829. The record further discloses that the Engine and Chasis numbers of the said vehicle were tallied with the original registration number. This shows the clear complicity of the

applicant in the present crime. There are antecedents at the discredit of the applicant as stated earlier.

7 In view of the above, I am not inclined to release the applicant on bail. The application is dismissed accordingly.

(A.S. GADKARI,J.)