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

CRIMINAL BAIL APPLICATION NO. 2464 OF 2015

1. Amol Chandrakant Ghadve	
2. Kiran Ramdas Kuchekar	...Applicants
Versus	
The State of Maharashtra	...Respondent

Mr.Kuldeep Patil, for the Applicants

Ms. Veera Shinde, A.P.P for the Respondent-State

CORAM : REVATI MOHITE DERE, J.

DATE : 22nd MARCH, 2016

P.C. :

1. Heard learned Counsel for the applicants and the learned A.P.P.

2. By this application, the applicants seek their enlargement on bail in connection with C.R. No. 67 of 2014, registered with the Guhagar Police Station, Pune for the alleged offences punishable under Sections 302, 394 r/w 34 of the Indian Penal Code.

3. The complainant is the brother of the deceased – Vishas Mahadev Khare. He has stated that on 30th September, 2014, two unknown tourist came to stay in the lodge 'Pleazer Point' which was owned and run by the deceased. On 1st October, 2014 at about 9.30 a.m., deceased is stated to have gone to the room of the said two persons to give breakfast and thereafter deceased – Vishwas was not seen. At around 1.30 p.m. when the wife of the deceased, went to the hut which was used as a kitchen room of the lodge, in search of the deceased, from the gap of the door of the room, she saw the deceased lying on the floor in a pool of blood. After entering the said room, she found that the throat of the deceased was slit and his gold chain weighing 10 gms was missing.

4. Learned Counsel for the Applicants submitted that the prosecution case rests on circumstantial evidence. He submitted that although there are statements of the brother of the deceased – Govind Khare and Sharmila Ghume, which have been recorded to show that the said two persons had made enquiry with them, the said statements cannot be relied upon for the following reasons :- i) as Sharmila Ghume's statement was recorded after 55 days and ii) the possibility of Govind

Khare and Sharmila Ghume, seeing the accused prior to their identification parade cannot be ruled out, considering the panchanama which was drawn on 9th January, 2016. He submitted that there are discrepancies in the statement of Govind Khare and Shweta Khare inasmuch as, Shweta Khare had stated that the said two persons knew the name of the deceased, whereas, Govind's statement shows that deceased was not known to the applicants. He submitted that accused no.1 is alleged to have pointed out the place where the gold chain was sold, however, the gold chain had not been recovered and what was recovered was melted gold. He submitted that although in the identification parade which was held on 29th January, 2016, the applicants were identified by Govind and Sharmila, the said identification parade is doubtful, in view of the panchanama, which was drawn on 9th January, 2016. He submitted that on 9th January, 2016, the accused no.1 is stated to have taken the police to the hut, to show the spot where the murder was committed. He submitted that the possibility of Govind and Sharmila seeing the deceased during the recording of the said panchanama, prior to the holding of the identification parade cannot be ruled out.

5. Learned APP opposed the bail application. She submitted that there is ample circumstantial evidence as against the applicants. She submitted that the statement of Govind shows that on 30th October, 2014, he had seen two persons and had given the description of the said two persons and the clothes the said two persons were wearing. She submitted that even Sharmila Ghume's statement shows that the said two persons had made enquiries on 1st October, 2014, after the alleged incident and had asked for directions to go to Chiplun. He submitted that both Govind and Sharmila have identified the applicants in the identification parade which was held on 29th January, 2016. She further submitted that there are CDR records which clearly show that the applicants had visited the said place earlier, from 30th June, 2014 to 1st July, 2014 and that even the location on 30th September, 2014 to 1st October, 2014 is at the spot, where the incident took place. She submitted that both the applicants were in touch with each other. She further submitted that a Rudraksha mala, belonging to Applicant No.1, was found at the spot of the incident and that the same has been identified by the sister of the applicant no.1. She further submitted that the statement of one Amol Chandrakant Ghadve, which is on page 484 of the application, shows that the applicant no.1 had sold gold chain on 2nd

October, 2014 and had received an amount of Rs.1,91,900/- for the same. She further relied on the statement of Lalita Narayan Sawant, a friend of applicant no.1 who in her statement has stated that the applicant no.1 owed some money to her and that on 2nd October, 2014, he paid her a sum of Rs.40,000/-. She submitted that considering the overwhelming material as against the applicants, the applicants are not entitled to be enlarged on bail. She submitted that even charge has been framed in the present case.

6. Perused the charge-sheet, in particular the statements of Govind Khare, Sharmila Ghume, Shweta Khare, Vidya Khare, Amol Chandrakant Ghadve, Lalita Sawant and Haridas Kakade. Learned APP has also relied on the statement of one Haridas and has produced a receipt to show that a gold chain weighing 99 grams was purchased from him by the deceased. She submitted that this is the very same chain weighing 99 grams, which was sold by the applicant no.1 to Amol Chandrakant Ghadve on 2nd October, 2012 having a hallmark of Waman Hari Pethe. As far as the submission advanced by the learned counsel for the applicants with regard to the possibility of Govind and Sharmila seeing the applicants before the identification parade is concerned, at this stage, there is nothing to show in

the panchanama that both Govind and Sharmila were present at the spot. It appears from the statements of Govind, Sharmila and Shweta that they have given the description of the said two persons. There are CDR records which show that the applicants were present at the spot at the time of the alleged incident. The receipt at page 76 of the application, has been produced by Haridas to show that the deceased had purchased a gold chain weighing 99 grams from him having hallmark of Waman Hari Pethe. The said fact is supported by Amol, who in his statement has stated that a gold chain weighing 99 grams with the hallmark was sold to him by the applicant no.1, on 2nd October, 2014. The statement of Lalita Sawant, also shows that the applicant no.1 had paid a sum of Rs.40,000/- to her on 2nd October, 2014 from the said amount. It may also be noted that a Rudraksha mala found at the spot, belonging to the applicant no.1 has been identified by the sister of the applicant no.1

7. Considering the material as against the applicants, this is not a fit case to enlarge the applicants on bail.

8. Hence, the Application for bail is rejected and disposed of as

such.

9. Needless to observe that the trial court shall decide the case on its own merits uninfluenced by the observations made in this order.

10. All concerned to act on the authenticated copy of this order.

REVATI MOHITE DERE, J.