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**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD**

CRIMINAL APPLICATION NO.6840 OF 2016

Rekha w/o Poonam Chungade,
@ Rekha d/o Suvalal Maher,
Age: 19 years, Occ: Housewife,
R/o. Mahervasti, Waghala,
Tq. Vaijapur, Dist. Aurangabad. ..APPLICANT

VERSUS

The State of Maharashtra
through Shivur Police Station
Tq. Vaijapur, Dist. Aurangabad. ..RESPONDENT

WITH

**CRIMINAL APPLICATION NO.171 OF 2017
IN
CRIMINAL APPLICATION NO.6840 OF 2016**

Bhagwan s/o Sukhlal Chungade,
Age: 35 years, Occ: Agri.,
R/o. Pokhari, Tq. Vaijapur,
Dist. Aurangabad. ..APPLICANT

VERSUS

The State of Maharashtra & anr ..RESPONDENTS

Mr S.B. Rajebhosale, Advocate for applicant in
Criminal Application No. 6840 of 2016 and for
respondent No 2 in Criminal Application No. 171 of
2016;

Mr A.P. Basarkar, Addl. Public Prosecutor for
respondent/State

Mr S.G. Ladda, Advocate to assist A.P.P.

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CORAM : N.W. SAMBRE, J.**DATE : 11th JANUARY, 2017****ORDER :**

For the reasons stated in Criminal Application No. 171 of 2017 seeking permission to assist the prosecution, same stands allowed.

2. The applicant in Criminal Application No. 6840 of 2016 is seeking regular bail in Crime No. I-66 of 2016 registered with Shivur Police Station, Taluka Vaijapur, District Aurangabad for offences punishable under Sections 302, 201, 120(B) of the Indian Penal Code, for the alleged incident dated 5th May, 2016.

3. The prosecution story against the present applicant is, the complainant lodged first information report on 6th May, 2016 alleging that his real brother got married to present applicant on 1st April, 2016. Before and subsequent the marriage, Poonam used to get threats of not marrying with present applicant from unknown

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person.

4. It is then claimed that present applicant when went to her parental house made phone call to Poonam on 5th May, 2016 and invited him. Poonam on 5th May, 2016, went to parental house of the applicant. It is claimed that subsequent thereto, his body was found burnt and scooter, on which he was travelling, was located in one of the well. As such, crime in question.

5. The applicant is arrested on suspicion being conspirator in the crime in question.

6. The investigation in the matter is complete, as charge sheet is already filed. One of the co-accused is already ordered to be released on bail by this Court namely Jaysing s/o Bhagchand Maher vide order dated 22nd November, 2016 in Criminal Application No. 5350 of 2016 on the ground that the allegation against him is only pursuant to Section 201 of the Indian Penal Code.

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7. With the assistance, I have perused the charge sheet. The prayer for bail is opposed by learned Additional Public Prosecutor, who is assisted by learned Counsel for the complainant.

8. Upon perusal of the charge sheet, what could be noticed is, so far as the case against the applicant is concerned, same is based on circumstantial evidence. The incriminating circumstances which are brought to my notice by learned Additional Public Prosecutor are that on phone call by accused Vijay prior to, on the date and subsequent to the date of marriage given threats to late Poonam of not marrying with present applicant. Second incriminating circumstance is prior to the date of incident i.e. 5th May, 2016 present applicant has called Poonam and invited him to visit her parental house. Third incriminating circumstance that is placed on record is call given by the present applicant to accused Vijay.

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9. So far as the above referred incriminating circumstances are concerned, so as to complete chain of events, so as to infer involvement of the applicant if analyzed, what could be noticed is, visit of deceased Poonam to the place of incident i.e. parental house of the present applicant, is not in dispute. However, subsequent thereto disappearance is attributed to the present applicant being conspirator but for the alleged call between accused Vijay and present applicant, which is in fact denied by applicant. There is no substantial material to infer conspiracy on the part of applicant as case is based on circumstantial evidence.

6. In view of above, the following order is passed : -

(i) The applicant be released on bail in Crime No. I-66 of 2016 registered with Shivur Police Station, Taluka Vaijapur, District Aurangabad for offences punishable under Sections 302, 201, 120(B)

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of the Indian Penal Code, on furnishing P.R. bond of Rs.25,000/-, with one or two sureties in the like amount.

(ii) The applicant shall neither influence the prosecution witnesses nor tamper with the prosecution evidence.

(iii) Two consecutive absence of the applicant before the Court below during the trial shall entail the Court below to initiate the proceedings for cancellation of bail.

7. Criminal Application No. 6840 of 2016 stands allowed in above terms.

(N.W. SAMBRE, J.)

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