

Anand

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

**BAIL APPLICATION NO.82 OF 2017**

Dhanaji Shivaji Katkar .Applicant

Vs.

The State of Maharashtra .Respondent

Mr.B.V.Salunkhe, Advocate, for the Applicant

Mr.S.R.Agarkar, APP, for the Respondent – State

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

**DATE : 12.07.2017**

**P.C.**

. Heard learned counsel for the parties.

2. By this Application, the Applicant seeks his enlargement on bail in connection with C.R.No.141 of 2016 registered with the Vaduj Police Station, Satara, for the alleged offence punishable under Section 302 r/w 34 of the Indian Penal Code.

3. Learned counsel for the Applicant states that the prosecution case rests on circumstantial evidence and that there is no material to show the complicity of the Applicant. He submits that the deceased had threatened to commit suicide in March, 2016 and hence, Swati was constrained to lodge an NC as against her deceased husband.

He submitted that the possibility of the deceased committing suicide cannot be ruled out, in the facts of the present case.

4. Learned APP opposes the Application. He submitted that there is sufficient material to show the complicity of the Applicant.

5. Perused the papers. The prosecution case rests on circumstantial evidence. The Complainant is the brother of Swati Tupe's deceased husband – Bramhadeo Tupe. It is alleged by the Complainant – Sunil Tupe, in the FIR dated 04.06.2016, that the Applicant was having an affair with his sister-in-law i. e. Bramhadeo's wife. He has alleged that on 03.06.2016, he had seen the Applicant at the house of his brother – Bramhadeo. He has stated that for about six months, the Applicant was having an affair with co-accused – Swati i. e. his sister-in-law and wife of the deceased – Bramhadeo. He has stated that when the Applicant's wife expired, Swati had gone to the Applicant's house for a few days. He has stated that on the day of the incident, at about 6.00 p.m., Bramhadeo had come to his father's house and disclosed, that his wife – Swati and the Applicant were going to finish him. He has stated that at about 7.15 p.m., the Applicant and Swati, both, went out of the house and disclosed, that the deceased had committed suicide and

had locked the door from inside. According to the Complainant, when he opened the door from outside, he found that the door was not locked from inside. The Applicant disclosed to the Complainant, that he was going to get an ambulance, however, did not return thereafter. He has stated that at the spot, where the deceased was found lying, a telephone wire was seen. Prima facie, it appears that not only is there motive for the Applicant to cause Bramhadeo's death, but there is evidence of last seen. Apart from the said evidence, there is an extra judicial confession made by the Applicant to Nitin Pawar. The statements of Nitin Pawar, children of the deceased and others have been recorded under Section 164 of the Code of Criminal Procedure. They all point to the Applicant's complicity.

6.           Considering the aforesaid, this is not a fit case to enlarge the Applicant on bail. Hence, the Application stands rejected.

7.           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.

**(REVATI MOHITE DERE, J.)**