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

CRIMINAL BAIL APPLICATION NO.209 OF 2017

Shankar Mahadev Sawant

...Applicant

Versus

The State of Maharashtra

...Respondent

Mr.Chirag Sonecha a/w Mr.N.B.Wakle i/b Mr.K.J.Patil, for the Applicant.

Mr.H.J.Dedia, A.P.P. for the Respondent - State.

CORAM : REVATI MOHITE DERE, J.

DATE : 23rd MARCH, 2017

P.C. :

1. Heard learned counsel for the parties.
2. This is the second bail application preferred by the applicant. The first bail application, being Criminal Bail Application No.460 of 2016, was withdrawn with liberty to file a fresh application after receipt of the CA report. As the CA report is received, the present application is filed.
3. By this application, the Applicant seeks his enlargement on bail

in connection with C.R.No.44 of 2015 registered with the Kasegaon Police Station, Sangli, for the alleged offence punishable under Section 302 of the Indian Penal Code. The incident in question took place on 5th August, 2015.

4. Learned Counsel for the Applicant contended that the prosecution case rests entirely on circumstantial evidence and that the circumstances on record are not such as would inspire confidence. He submitted that the applicant had received a sum of Rs.11,500/- from his employer two day's prior to the incident and as such there was no question of demand of Rs.10,000/- from the deceased – Sagar. He relied on the statement of the employer, which is on page 108A of the application. He further submitted that the statement of the two witnesses show that 1 day prior to the incident, there was a quarrel between the deceased and the applicant, however, nothing further took place in the said incident. He submitted that if the applicant had any animosity against the deceased there was no reason for the applicant and the deceased to consume liquor together. He submitted that the blood stained clothes of the applicant were recovered under Section 27 of the Evidence Act, after almost 5 day's of his

arrest. According to the learned counsel considering the material on record, the applicant ought to be enlarged on bail.

5. Learned APP opposed the bail application.

6. Perused the papers. The prosecution case rests entirely on circumstantial evidence. The incident in question has taken place on 5th August, 2015 and the body of the deceased was found on 6th August, 2015. There appears to be motive as against the applicant inasmuch as, the deceased had borrowed a sum of Rs.10,000/- from the applicant and the applicant was demanding the said money back. The fact that the relations between the deceased and the applicant were hostile is evident from the statement of the witnesses, who had stated that 1 day prior to the incident, there was a quarrel between the deceased and the applicant. Merely because the applicant and the deceased were seen consuming liquor does not mean that the relations between them were not hostile. Apart from the said evidence, there is evidence of last seen. There are two witnesses i.e. the waiter and the Manager who had last seen the applicant in the company of the deceased on 5th August, 2015, after which the deceased was found

dead on the next day. It appears that the weapon with which the deceased was assaulted i.e. the knife was found stuck in the abdomen of the deceased where the body was found. There is also recovery of blood stained clothes at the instance of the applicant. The CA report which is produced on record shows that it was human blood.

7. Considering the material on record, prima-facie, this is not a fit case to enlarge the applicant on bail.

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

9. It is made clear that the observations made herein are prima facie for deciding the aforesaid application, and the learned Judge shall decide the case on its own merits, in accordance with law, uninfluenced by the observations made in this order.

(REVATI MOHITE DERE, J.)