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

**CRIMINAL APPLICATION NO. 283 OF 2017
IN
CRIMINAL APEAL NO. 199 OF 2017**

Ganesh Subhash Pawar

...Applicant

Vs.

The State of Maharashtra

...Respondent

Mr. Aniket U. Nikam, Advocate i/b. Mr. Chetan S. Damre,
Advocate for the Applicant

Mrs. G.P. Mulekar, APP for the State

**CORAM : SMT. V.K. TAHILRAMANI, &
M.S. KARNIK, JJ.**

DATED : 30TH MARCH, 2017

ORAL ORDER (PER SMT. V.K. TAHILRAMANI, J.)

1. Heard both sides.
2. The Applicant has been convicted under Section 302 of the Indian Penal Code for causing the death of Pooja.
3. According to the prosecution the accused/ applicant and deceased Pooja were residing together as husband and wife. To support this submission reliance is placed on the evidence of P.W. 3

Narayan Pawar who was the landlord of the premises in which the accused and deceased Pooja were residing. The dead body of Pooja was admittedly found on 28th July, 2015 at about 12.45 p.m in the house of the father of the Applicant. When the dead body was found, no other person was seen in the premises. It is an admitted fact that no witness has seen the Applicant either going into the premises of his father or coming out of the premises of his father at the relevant time.

4. The learned A.PP however relied on the evidence of P.W. 3 Narayan and P.W. 4 Dadasaheb Sapkal who has stated that on the night of 26th July, 2015 the accused and the deceased Pooja were seen together going to some place. The dead body of Pooja was found in the house of Subash Pawar, father of the Applicant, which house was situated 3 kms away from the premises where the Applicant and the deceased were residing. In addition, the learned APP placed reliance on the evidence of P.W. No.1 and P.W. No.5 who have stated that frequent quarrels used to take place between the Applicant and Pooja. The Applicant was suspecting the character of Pooja.

5. The learned A.PP also placed reliance on the circumstance that blood stained pant was recovered at the instance of the Applicant and placed reliance on the evidence of Panch witness P.W. No.6 Rajendra Jadhav and C.A. Report which shows that blood stained pant was recovered at the instance of the Applicant and blood group of the deceased was found on the said pant.

6. As far as recovery of blood stained pant is concerned, the learned Counsel for the Applicant pointed out that the Panch has admitted that he was the live-in partner of the sister of the deceased Pooja. In such case, prima facie we find much merit in his contention that the evidence of panch witness and the C.A. Report cannot be relied upon. As far as circumstance of last seen is concerned, the witness had seen the Applicant and the deceased together on the night of 26th July, 2015 and the dead body was found on 28th July, 2015. The gap between last seen on 26th and finding dead body on 28th July, 2015 is rather large and the Applicant going in or going out from his father's house where dead body was found is not witnessed by anyone. Thus, prima facie, we

are not inclined to place much reliance on the circumstances of last seen together. Thus the only a circumstance which remains is motive. Prima facie, we are of the opinion that only on the circumstance of motive, bail cannot be denied to the Applicant. In the above circumstances, we grant bail to the Applicant and pass the following order:

O R D E R

1. The Applicant to be released on bail in the sum of Rs.30,000/- with one or two sureties to make up the said amount and P.R. Bond of the same amount.
2. During the period the Applicant is on bail he shall report to the Satara Taluka Police Station once in fortnight.
3. The Application is allowed in the above terms.

(M.S. KARNIK, J.)

(SMT. V.K. TAHILRAMANI, J.)