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

CRIMINAL BAIL APPLICATION NO.548 OF 2017

Dinesh @Nitin Ramling Salunkhe

...Applicant

Versus

The State of Maharashtra

...Respondent

Mr.P.D.Dalvi, for the Applicant.

Ms.S. S. Kaushik, A.P.P for the Respondent-State

Mr.R.H.Patil, for the Original Complainant.

CORAM : REVATI MOHITE DERE, J.

DATE : 13th JULY, 2017

P.C. :

1. Heard learned counsel for the parties.
2. By this application, the Applicant seeks his enlargement on bail in connection with C.R.No.55 of 2016 registered with the Vairag Police Station, Solapur Rural, for the alleged offences punishable under Section 302 r/w 34 of the Indian Penal Code.
3. Learned Counsel for the applicant submitted that the applicant

has been falsely implicated in the said case, because of an earlier dispute between the deceased – Kashinath Salunkhe and the applicant's father, with respect to the partition of the ancestral property. He submitted that the prosecution case rests on circumstantial evidence and that there is no material to connect the applicant with the alleged offence. He further submitted that deceased – Kashinath himself committing suicide cannot be ruled out.

4. Learned APP opposes the application. She submits that not only is there motive, qua the applicant to murder the deceased – Kashinath who was their uncle, but there is an eye-witness who have seen the quarrel, before deceased – Kashinath was found hanging. She further submits that 3 CRs were lodged by the deceased – Kashinath, as against all the accused including the applicant with the Vairag Police Station, being C.R.No.64 of 2013, C.R.No.130 of 2014 and C.R.No.234 of 2015. She submitted that a private case was also filed by deceased – Kashinath, as against the applicant in 2014. She submits that deceased had alleged offences punishable under Sections 323, 324, 504, 506 r/w 34 of the Indian Penal Code in all the said CRs, as against the applicant and others i.e. that the

accused were threatening him with dire consequences etc.

5. Perused the papers. The incident has taken place on 28th February, 2016. The deceased was the paternal uncle of the applicant. All the other co-accused are the brothers and father of the applicant. The prosecution case rests on circumstantial evidence. There are two witnesses who had last seen the applicant in the company of the deceased. The said witnesses are Rameshwar Pawar and Shivaji Tambare. According to Rameshwar Pawar at round 9.30 p.m., on 28th February, 2016, he saw the applicant and other co-accused quarreling with the deceased near a well, situated in the agricultural field. He has stated that there used to be regular quarrels with regard to the land between them, and also with regard to the water being taken from the bore well. The statement of Shivaji Tambore is on similar lines. On 29th February, 2016, the witnesses learnt from the complainant – Surekha Salunkhe, the wife of the deceased that the deceased was found hanging on a Neem tree, near a well in the agricultural field. The complainant – Surekha Salunkhe, who is the wife of the deceased has alleged that the present applicant and other co-accused had killed her husband. The dead body was seen hanging on a branch of a Neem tree with

the feet touching the ground. The pant and the shirt of the deceased were seen to be torn. *Prima facie*, there is motive as against the applicant and others. It also appears that in 2014-2015, the deceased had lodged complaints as against the applicant and others with Vairag Police Station, alleging offences punishable under Sections 323, 324, 504, 506 of the Indian Penal Code. It appears that in the said FIRs, the deceased had alleged that the applicant and others were threatening to kill him, because of the dispute between them. Apart from the last seen, there is motive, qua the applicant to cause the death of the deceased. The possibility of the applicant tampering with the evidence and threatening the witnesses cannot be ruled out.

6. Considering the aforesaid, this is not a fit case to enlarge the applicant on bail.

7. Hence, the Application for bail is rejected and disposed of as such. However, the trial is expedited.

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

(REVATI MOHITE DERE, J.)