

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

BAIL APPLICATION NO. 637 OF 2017

Arjun Pandurang Sutar

... Applicant

V/s.

The State of Maharashtra

... Respondent

Mr. V.V. Purwant for the Applicant.

Mr. A.S. Patil, APP for the Respondent/State.

CORAM : A.S.GADKARI, J.

DATE : 06th OCTOBER, 2017

P.C.:

. This is an application under Section 439 of Cr.P.C. for bail in C.R. No. 202 of 2016 dated 04.10.2016 registered with Pangari Police Station, Barshi District Solapur under Sections 302 and 201 read with Section 34 of the Indian Penal Code.

2 Heard the learned Counsel for the Applicant, learned APP and perused the charge-sheet.

3 It is the prosecution case that the Applicant was having illicit relations with Smt. Laxmi Chaudhari (deceased) to which accused No.2 Nilesh did not like and was in opposition of the same. That the Applicant along with Nilesh Sutar, therefore, committed murder of deceased Smt. Laxmi Chaudhari prior to 1.30 a.m. of 30.09.2016 and threw her dead body in the well belonging to Ramchandra Raut (Mali). The dead body of said Laxmi Chaudhari was noticed

on 02.10.2016 and thereafter, the police were informed about the same. The dead body was sent for performing post-mortem. The Medical Officer has opined the cause of death as “due asphyxia due to strangulation with post-murder drowning”. Initially, ADR No. 36 of 2016 was registered under Section 74 of Cr.P.C. and subsequently, the present crime is registered. During the course of investigation, the Applicant came to be arrested on 06.10.2016 and after completion of investigation, the police have submitted chargesheet.

4 The prosecution has propounded mainly three circumstances against the Applicant i.e. i) motive, ii) last seen together and iii) recovery of shawl by which it is alleged that the deceased was strangled.

As far as the first circumstance of motive is concerned, it appears from the record that Accused No.2 Nilesh was sharing equal motive with the Applicant rather in fact Nilesh was in the opposition of the said illicit relationship of the Applicant with the Laxmi. That the said accused Nilesh has been released on bail by an Order dated 02.06.2017. The second circumstance of last seen together was allegedly witnessed by two persons namely Smt. Suman Bare and Smt. Suman Pawar. It is to be noted here that the said witnesses saw Laxmi leaving her residential premises at 10.00 a.m. on 29.09.2016 and Applicant half an hour thereafter left the said premises. It is to be noted here that the dead body of Laxmi was found on 02.10.2016 in a well belonging to Ramchandra Raut. Prima facie, it appears that there is a substantial gap between the said circumstance of

last seen together and finding of the dead body of the deceased.

The last circumstance, i.e. the recovery of the shawl at the instance of the Applicant is concerned, there is no connecting link that by the said shawl the Applicant and co-accused strangled deceased Laxmi and therefore, according to me the said recovery at this stage cannot be considered as a vital link connecting the Applicant with the said murder.

5 In view of the above, Applicant can be released on bail.

Hence, the following order.

- i) Application is allowed.
- ii) The Applicant/accused be enlarged on bail on furnishing P.R.Bond in a sum of Rs.50,000/- with one or two sureties in the like amount.
- iii) The Applicant shall not commit any criminal activity while on bail.
- iv) The Applicant shall not jump the bail.
- v) The Applicant shall not abscond or leave India without prior permission of the Court and furnish his permanent address to the Investigating Officer along with documentary proof of his address.
- vi) In the event of breach of any of the above conditions, the prosecution will be at liberty to move the Court for cancellation of bail.
- vii) The application for bail stands disposed of in above terms.

(A.S.GADKARI, J.)