

nsc.

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

CRIMINAL BAIL APPLICATION NO.822 OF 2017

Santosh Mallikarjun Waghmare	...Applicant
Versus	
The State of Maharashtra	...Respondent

Mr.Samir Kumbhakoni, for the Applicant.

Mr.S.H.Yadav, A.P.P. for the Respondent-State.

CORAM : REVATI MOHITE DERE, J.

DATE : 19th APRIL, 2017

P.C. :

1. Heard learned counsel for the Applicant and the learned APP for the Respondent - State.

2. By this application, the Applicant seeks his enlargement on bail in connection with C.R.No.108 of 2016 registered with the Salgar Vasti Police Station, Solapur, for the alleged offences punishable under Sections 302, 201 r/w 34 of the Indian Penal Code.

3. Learned Counsel for the applicant seeks bail on the ground of parity. He submitted that co-accused – Laxmi @Laxmibai Mallikarjun Waghmare, has been enlarged on bail by this Court (Coram:Mrs.Mridula Bhatkar, J.) vide order dated 15th March, 2017, passed in Criminal Bail Application No.2294 of 2016 and that the allegations against the applicant is similar to that of co-accused - Laxmi @Laxmibai. He further submitted that there is no evidence to connect the applicant with the alleged offence.

4. Learned APP opposed the bail application. He submitted that the statement of Jagdevi S. Gaikwad, neighbour of the applicant shows that the applicant was in the house, when Laxmi @Laxmibai ran in the house on 18th June, 2015 at about 6.00 a.m.

5. Perused the papers. Deceased – Shobha was the sister of the applicant. She was residing in the house alongwith her mother, co-accused - Laxmi @Laxmibai, father and two brothers. The applicant is the brother of deceased – Shobha. Deceased - Shobha was about 24 years of age at the relevant time. The incident in question has taken place on the intervening night of 17th and 18th June, 2016. According to the prosecution, Shobha

was found unconscious in the house at about 6.00 a.m. and as Shobha was not breathing, the applicant and others tried to regain her consciousness, called for a rickshaw and took her to the hospital, where she was pronounced dead. The postmortem report indicates that deceased – Shobha died an unnatural death, pursuant to which the aforesaid complaint was lodged, as against Laxmi @Laxmibai, mother of the deceased and 2 brothers (including the applicant), as they were present in the house at the time of the incident. No doubt, the deceased died unnatural death and it appears that all the accused were present in the house at the relevant time. Learned APP is unable to point out any material on record to show that the applicant or any of the accused had any motive to cause the death of Shobha. Prima-facie, nothing is brought on record to show that the applicant committed the alleged offence. Even otherwise, co-accused – Laxmi @Laxmibai Mallikarjun Waghmare, has been enlarged on bail by this Court vide order dated 15th March, 2017. Investigation is complete and charge-sheet is filed.

6. Considering the aforesaid, the application is allowed and the applicant is enlarged on bail on the following terms and conditions:-

ORDER

- i) The Applicant be enlarged on bail on furnishing P.R. Bond in the sum of Rs.50,000/- with one or two sureties in the like amount;
 - ii) The Applicant shall attend the concerned Police Station, on the first Monday of every month, between 10:00 a.m. to 11:00 a.m., till the conclusion of the trial;
 - iii) The Applicant shall inform his latest place of residence and mobile contact number immediately after being released and/or change of residence or mobile details, if any, from time to time to the trial Court as well as to the concerned Police Station, in writing;
 - iv) The Applicant shall not tamper with the evidence or attempt to influence the complainant, witnesses or any person concerned with the case;
 - v) The Applicant shall cooperate with the conduct of the trial.
7. The Application is allowed and disposed of in above terms.

8. It is made clear that the observations made herein are *prima facie* and are confined to this application and the learned Judge to decide the case on its own merits, uninfluenced by the observations made herein.

9. All concerned to act on the authenticated copy of this order.

(REVATI MOHITE DERE, J.)