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IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

CRIMINAL BAIL APPLICATION NO.1404 OF 2017

Swapnil D.Bhadawale	...Applicant
V/s.	
The State of Maharashtra	...Respondent

Mr.Sanjiv G. Punalekar for the Applicant.

Mr.S.V. Gavand, APP for the Respondent.

CORAM : T.V. NALAWADE, J.
DATE : 28TH AUGUST, 2017.

P.C. :-

1. The application is filed for bail in C.R. No.443 of 2016 registered in Sinhagad Road Police Station, Pune for the offence punishable under section 302 of I.P.C. and other sections like section 4(25) of the Arms Act. The papers of the investigation are available and the charge-sheet is also filed for this offence. Both sides are heard.

2. The deceased Pooja was the wife of the present applicant. The incident in question took place within six months of marriage. The incident took place in the matrimonial house and in the room, which was in the use of this couple. There is allegation that the

applicant had extra marital affair. There is a statement of the said girl in that regard. To remove the obstacle of the wife, the wife was murdered by the present applicant will be the case of the prosecution.

3. The A.D. Report was given by the present applicant at about 17:25 hours on mobile and he had informed that the assault was made on his wife on her neck and hands by using sharp edged weapon and somebody had murdered her. The incident had taken at about 5:00 p.m. and the report was given at about 17:15 hours on the same day i.e. 22nd November, 2016. He came to be arrested on the same day. The clothes having blood were there and the weapon like sword having blood stained is recorded. The C.A. Report shows that the blood group of the deceased was "O". The blood group of the present applicant is "A". Blood of group "O" was found on the clothes and weapon produced by the applicant.

4. Learned counsel for the applicant argued much on the circumstance like no separate statement was recorded under section 27 of the Evidence Act of the applicant but the recovery of the weapon is shown. This circumstance cannot be considered at this stage and it will be the matter of appreciation by the trial Court on the basis of substantive evidence which will be given during trial. The case involves circumstantial evidence and there are circumstances like motive, incident took place in the room which was in the use of

the the present applicant and the deceased. The circumstances like clothes of the applicant were having blood stained and the circumstances like recovery of weapon at the instance of the present applicant are there. Due to the nature of the relationship and the aforesaid circumstances, in the present case provisions of sections 106 read with 114 of the Evidence Act can be used against him. The A.D. report was given by the present applicant almost immediately after incident and this circumstance can also be used against him.

5. Learned counsel argues that more interest was shown in the investigation by special prosecutor and that incident in which one advocate and the investigation officer had visited the house of the applicant is recorded and that matter is pending for consideration in the writ petition (2283 of 2017). That circumstance is not at all relevant in the present application in view of the material available on record. This Court holds that it is not fit case to grant relief of bail. The application stands rejected.

(T.V. NALAWADE, J.)