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

CRIMINAL BAIL APPLICATION NO.1586 OF 2017

Jayesh Raghunath Mhadlekar

...Applicant

Versus

The State of Maharashtra

...Respondent

Mr.H.R.Chavan a/w Mr.Vilas Kadam, for the Applicant.

Ms.Veera Shinde, A.P.P for the Respondent-State

CORAM : REVATI MOHITE DERE, J.

DATE : 9th AUGUST, 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.33 of 2017 registered with the Mulund Police Station, for the alleged offence punishable under Section 302 of the Indian Penal Code.
3. Learned Counsel for the applicant vehemently submitted that there is no material to connect the applicant with the alleged offence. He

submitted that the prosecution case rests entirely on circumstantial evidence and that there are no incriminating circumstances, as against the applicant. He further submitted that even the recovery of blood stained clothes, at the instance of the applicant is doubtful, as the blood stains are on the back and not in the front. He submitted that there are discrepancies in the complaint lodged by the mother of the deceased and the statement of the father of the deceased-Shreya.

4. Learned APP opposed the application. She submitted that although the prosecution case rests entirely on circumstantial evidence, there are incriminating circumstances, which point to the complicity of the applicant. She relied on the statement of the complainant – Madhuri N. Dhavan (mother of the deceased), the statements of witnesses who had last seen the applicant with the deceased, the statement of the applicant's son – Smith, statement of Parshuram Aamkar etc., in support of her submission. She submitted that there is recovery of blood stained clothes, at the instance of the applicant. She submitted that the deceased was assaulted with an iron rod and that the said rod was found at the spot.

5. Perused the papers. The applicant is the husband of the deceased-Shreya. According to the complainant, the applicant and Shreya were married for about 14 years. She has stated that after marriage, her daughter- Shreya (deceased) had disclosed to her that the applicant would consume alcohol and would suspect her character and would assault her. She has stated that about 7 years prior to the incident, they had given a 1+1 room to the applicant and her daughter-Shreya to stay at Mulund (West), Mumbai. She has stated that the applicant and her daughter-Shreya started residing on the 1st floor and that on the ground floor, the applicant was running his office. She has stated that the applicant after consuming alcohol would start quarreling with Shreya and hence their son – Smith was staying with them. She has stated that the applicant disliked the fact, that they would come often to meet Shreya. She has stated that two year's prior to the incident, the applicant started consuming more alcohol and quarreling with her daughter-Shreya. She has stated that he would suspect her character and on one such occasion he had assaulted her daughter-Shreya with a cooker on her head, pursuant to which a police complaint was lodged by them. She has stated that the applicant was given an understanding by the police, however, despite the same, there was no change in the

applicant's behaviour. She has stated that 2 months prior to the incident, under the influence of alcohol, the applicant had again fought with Shreya and pulled and plucked her hair, pursuant to which an NC was lodged. However, after giving an understanding, the applicant was released. She has stated that thereafter, they had taken their daughter Shreya to their home and that Shreya started residing with them. She has stated that they told the applicant that they would send their daughter-Shreya only after there was some change in his behaviour. She has stated that for one month prior to the incident, Shreya was staying with them. She has stated that on 25th January, 2017 at about 11.30 p.m. the applicant came to their house and requested Shreya to come home, however Shreya refused to accompany the applicant; that her husband asked the applicant to change his behaviour and stated that they would send their daughter only after he improved, pursuant to which, the applicant got enraged and left the house.

6. According to the complainant, on the next day i.e. 26th January, 2017 at about 10.00 a.m., when she, her husband, their daughter-Shreya and Shreya's son - Smith were in the house, the applicant came to their house; that the applicant asked Shreya to accompany him; that her

daughter-Shreya, refused to accompany him as the applicant would suspect her character and would consume alcohol; that after Shreya's refusal, the applicant left the house at around 10.30 a.m., that two minutes thereafter, Shreya left for work as she was working in the Platinum Hospital; that her daughter-Shreya told them, that since the applicant was waiting in the passage, she would go down with him and that thereafter, they both left together. According to the complainant, as she did not receive any call from Shreya, that she had reached her workplace, she tried to contact Shreya on her phone, however Shreya could not be contacted. She has stated that, hence she went to the hospital, but was informed that Shreya had not come to the hospital. She has stated that she informed her family members and thereafter they went to the applicant's house and found Shreya was lying in a injured condition with a bleeding head injury. There are statements of witnesses which show, that they had seen the applicant leaving with Shreya (deceased) on the day of the incident, after which Shreya was found dead. The statement of the applicant's son also shows that the applicant continuously fought with the deceased and hence he was kept with his grand parents. The statement of Rohini Dabade also shows that at about 11.00 a.m. she had seen the deceased going towards her flat and that

the scooter of the applicant was parked close-by. The statement of Parshuram Aamkar shows that he had seen the applicant on 26th January, 2017 a little after 11.00 a.m. with one plastic bag in his hand going towards Saidham. There is recovery of blood stained clothes at the instance of the applicant.

7. Considering the *prima faice* material, as against the applicant, this is not a fit case to enlarge the applicant on bail.

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

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

(REVATI MOHITE DERE, J.)