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

CRIMINAL BAIL APPLICATION NO.2270 OF 2016

Balu@ Balasaheb Bajirao Satraj	...Applicant
Versus	
The State of Maharashtra	...Respondent

Mr.A.U.Nikam, for the Applicant.

Mr.Prashant Jadhav, A.P.P. for the Respondent-State.

HC – 1430 – A.L.Bhosale, Lonikand Police Station, Pune

CORAM : REVATI MOHITE DERE, J.

DATE : 2nd MAY, 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.452 of 2016 registered with the Lonikand Police Station, Pune for the alleged offence punishable under Section 302 r/w 34 of the Indian Penal Code.

3. Learned Counsel for the Applicant submits that there is no material to connect the applicant with the alleged offence. He submitted that the name of the applicant has been disclosed by the complainant's daughter and deceased's wife – Jyoti Vishwase, for the first time after 20 days, to show that the Applicant was last seen in the company of the deceased. He submitted that although there is recovery of blood stained clothes at the instance of the applicant, the said recovery is suspicious and it is highly improbable that the applicant would roam around in blood stained clothes for 2 days, prior to handing the same over to Vilas Rathod.

4. Learned APP does not dispute the fact, that apart from the aforesaid material, there is no other material, qua the applicant.

5. Perused the papers. The incident in question has taken place in the intervening night of 11th June and 12th June, 2016. The prosecution case rests entirely on circumstantial evidence. The complainant – Tukaram Vithoba Kale, is the father-in-law of the deceased – Anil Vishwase. A perusal of the FIR shows that when the complainant called his daughter – Jyoti to find the whereabouts of her husband, she disclosed to him that Anil

had left home on 11th June, 2016 at about 1.00 p.m, without disclosing anything and that he was under the influence of alcohol when he left. As far as evidence of last seen is concerned, the deceased's wife – Jyoti, in her first statement has stated that the deceased has left home after consuming alcohol on 11th June, 2016 at 1.00 p.m. In her 2nd supplementary statement which was recorded after almost 20 days i.e. on 29th June, 2016, Jyoti for the first time has stated that her husband had accompanied Balu@ Balasaheb Bajirao Satraj i.e. the applicant and one Dada Wagh. The said statement is recorded after almost 20 days. As far as other witnesses are concerned with regard to the last seen, no identification parade is held, as the said witness has seen the deceased in the company of two unknown persons. As far as recovery of blood stained clothes are concerned, the statement of Vilas Rathod shows that the applicant was allegedly roaming around on 13th and 14th June, 2016, in the said clothes, prior to handing over the same to him. Prima-facie, it seems a little improbable. There are no antecedents, qua the applicant. Investigation is complete and charge-sheet is filed.

6. Considering the material, qua the applicant, 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;

vi) An undertaking to the aforesaid clauses (ii) to (v), shall be filed by the Applicant, in the Registry of the trial Court, within two week's after his release;

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.)