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

***CRIMINAL BAIL APPLICATION NO.2488 OF 2017***

|                          |               |
|--------------------------|---------------|
| Shankar Maruti Gharge    | ...Applicant  |
| Versus                   |               |
| The State of Maharashtra | ...Respondent |

Mr.Hrishikesh Mundargi, i/b Mr.Subir Sarkar, for the Applicant.

Mr.M.G.Patil, A.P.P for the Respondent-State

***CORAM : REVATI MOHITE DERE, J.***

***DATE : 5<sup>th</sup> MARCH, 2018***

**P.C. :**

1. Heard learned counsel for the parties.
2. This is the second bail application preferred by the applicant, seeking his enlargement on bail in connection with C.R.No.I-95 of 2016, registered with the Kavathe Mahankal Police Station, Sangli, for the alleged offences punishable under Sections 302, 504, 506 r/w 34 of the Indian Penal Code. Since the first bail application was heard by me, the aforesaid bail application has been placed before this Court. In the first bail

application preferred by the applicant being Criminal Bail Application no.142 of 2017, it is recorded in the order dated 10<sup>th</sup> April, 2017, as under:-

“Learned Counsel for the applicant, after arguing for some time, seeks leave to withdraw this application.

Accordingly, the application is dismissed as withdrawn.”

3. Learned Counsel for the applicant has argued on merits as well as on the ground that one year has lapsed, since the first order was passed. He submitted that there is no progress in the case. According to the learned counsel, the applicant is only alleged to have held the hand of the deceased – Shrimanth Damu Pujari and that no overt act of assault has been attributed to the applicant.

4. Learned APP opposed the application. He submitted that there is no change of circumstance, warranting any interference.

5. Perused the papers. The applicant is alleged to have held the right hand of Shrimanth Damu Pujari (deceased), pursuant to which, co-accused Sukhdev Balku Ghagre, assaulted him with an axe. A perusal of the

postmortem report shows that the deceased has suffered as many as 9 chopped incised injuries. The cause of death is stated to be 'cut throat injury'. It appears that there was a dispute between the parties with regard to the ownership of the land. In the present case, there are 3 eye-witnesses to the incident i.e. Sanjay Pujari, Kundalik Ghode and Ashok Ghode. The statements of these witnesses have also been recorded under Section 164 of the Code of Criminal Procedure. The applicant by his act ( i.e. by holding the hand of the deceased-Shrimanth Damu Pujari) has facilitated the commission of the offence. The statements of the eye-witnesses are consistent with each other. There is no change of circumstance.

6. Considering the aforesaid, this is not a fit case to enlarge the applicant on bail.

7. Accordingly, the application for bail is rejected and disposed of as such. It appears that charge has been framed as against the applicant in January, 2017, however, there is no progress in the said case. Hence, the trial of the applicant is expedited. The learned Judge to conclude the trial as expeditiously as possible and preferably within 16

months from the date of receipt of this order.

8. 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.

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

**(REVATI MOHITE DERE, J.)**