

Anand

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

BAIL APPLICATION NO. 107 OF 2018

Chetan Balkrishna Musale

.Applicant

Vs.

The State of Maharashtra

.Respondent

Mr. S. G. Deshmukh i/b. Mr. S. T. Kanchanpurkar, Advocate, for the
Applicant

Mr. A. A. Palkar, APP, for the Respondent – State

CORAM : REVATI MOHITE DERE, J.

DATE : 26.03.2018

P.C.

. Heard learned counsel for the parties.

2. By this Application, the Applicant seeks his enlargement on bail in connection with C. R. No. 329 of 2017 registered with the Mumbra Police Station, Thane, for the alleged offence punishable under Section 302 of the Indian Penal Code.

3. Perused the charge-sheet.

4. Admittedly, the prosecution case rests on circumstantial evidence. According to the prosecution, the Applicant and the

deceased's wife were in relationship, pursuant to which, the Applicant murdered the deceased. A perusal of the complaint of the Complainant – Mrs. Rupali Minde (wife of the deceased) dated 22.08.2017 shows, that when she returned home, she found the door of the house ajar, and on entering the house, she found her husband lying on the bed and that there was no movement. Accordingly, she lodged a complaint as against unknown person on 23.08.2017. Rupali's statement was recorded by the police in question and answer form in which she has disclosed that she and the Applicant were in a relationship and that they would meet outside frequently at some lodge. She has stated that the Applicant had told her to divorce her husband (deceased) or else he would kill him, as he did not like the fact, that Rupali was staying with him. Rupali's 164 statement was also recorded which is consistent with the statement dated 23.08.2017. Similarly, the statement of Ramesh Minde, cousin of the deceased as well as the statement of Rani Lingam shows that they had seen the Applicant on the date of alleged offence. Subsequently, both, Ramesh and Rani have identified the Applicant in the Identification Parade.

5. Learned counsel for the Applicant relied on certain inconsistencies / contradictions in the statements of the said witnesses

recorded under Sections 161 & 164 of Cr.P.C.. He also assailed the fact, that the Applicant was identified in the identification parade after almost 45 days. Be that as it may, the fact remains that the statements of both, Ramesh and Rani show that they had seen a person on the date of the incident and that the said witnesses have subsequently identified him, as being the Applicant. There is recovery of a nylon rope from the bushes, at the instance of the Applicant. The cause of death is stated to be “Asphyxia due to ligature strangulation”.

6. Considering the *prima facie* material as against the Applicant, this is not a fit case to enlarge the Applicant on bail. Accordingly, the Application stands rejected. However, the trial of the Applicant is expedited.

7. It is made clear that the observations made herein are *prima facie*, and the trial Court shall decide the case on its own merits, in accordance with law, uninfluenced by the observations made in this order.

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

(REVATI MOHITE DERE, J.)