

based on circumstantial evidence. By going through the contents of report dated 18th August, 2017 and missing complaint dated 7th August, 2017 lodged by Shivaji Patil, maternal uncle of deceased, it is contended that there is no adverse circumstance against the Applicant in either of these documents.

3. By referring to the documents filed alongwith the charge-sheet, it is further submitted that in fact, according to the contents of report as well as statement of independent witness, viz. labour, it can be said that on the day of incident, Applicant who is step sister in law of deceased was, in fact, not present in the house. On 4.8.2017, on which date, according to the prosecution, some incident took place amongst the family members of deceased. From the statement of Laxmi Rajaram Mane, the labour, it is further contended that on 4.8.2017, in fact, Applicant was not present in the house as she has gone to her parental home at Dharmagaon. Learned counsel for Applicant, therefore, submitted that as there is no evidence against Applicant, application of the Applicant for bail may be allowed.

4. Learned APP in regard to statement of Laxmi Mane submitted that though according to her statement, Applicant was not

present in the house on 4.8.2017, it is contended that distance between house of Applicant and Dharmgaon is one kilometer. It is further contended that on the spot some bangle pieces were found which came to be seized. There is specific reference in the spot panchanama. On the basis of this evidence, prosecution has made an attempt to connect the Applicant as one of the assailants of the deceased and has prayed that application may be rejected.

5. On perusal of report, missing complaint dated 7th August, 2017 it is revealed that missing complaint came to be lodged by Shivaji Patil three days after deceased Suhas did not return home, after he left home in the night of 4th August, 2017. According to this report, before lodging the missing complaint, complainant has taken search for Suhas with his relatives at various villages. However, he could not find him. In the background of lodging of missing report as aforesaid, it reveals from the report dated 18.8.2017 that on 4.8.2017 deceased had contacted complainant on mobile and had informed about quarrel, which took place between him and parents when he demanded money to them. Contents of report further reveals that while talking to deceased, he heard noise “मल्ला वाचवा” , which shows that apart from his

parents, his brother, step maternal uncle were also indulged in beating, which is stated by complainant to be found by him while he was talking on phone, he could hear loud shouts of above persons and also saying of nephew namely Ushabai shouting them not to assault the deceased.

6. Further contents of report reveals that on 17th August, 2017 while complainant was in search of deceased with the help of police at around 2.00 p.m., they experienced foul smell in the field of deceased and had accordingly informed the parents. However, for want of presence of Taluka Magistrate and Medical Officer on spot, on that day no further steps could be taken. In this background, on 18.8.2017 after above authorities were present, one dead body was recovered which was found buried in the field, which was identified by the complainant to be that of deceased. Accordingly, offence came to be registered on 18.8.2017. From the P. M. notes, the probable cause of death of deceased is stated as “as asphyxia due to respiratory failure and strangulation”. Ligature marks are noted in Column No. 17 of the P. M. Report. From the contents of P. M. Notes, thus, there is ample evidence that deceased did not meet natural death. However, from the

limited evidence available against Applicant, as stated above, there appear to be no reason to keep the Applicant behind the bar.

7. Learned APP, on instructions of I.O. Mr. M. H. Vidhate who is present in the Court, makes a statement that in the entire charge-sheet, there are no statement of any witnesses who directly in indirectly involves Applicant except statement of Laxmi Mane. On perusal of her statement with regard to incident dated 4.8.2017 she stated on that she heard quarrel noise from the house of deceased “काका मला मारु नका”. However, she did not pay any heed to it, as according to her, it was a regular feature in the house of deceased. As such, she did not find necessary to go and visit the spot. In fact, statement of this witness shows that at that time Applicant was not present in the house as for some event she has visited her matrimonial home at Dharmgaon. Though according to learned APP, distance between the house of complainant and Applicant is only one kilometer, from further contents of statement of Laxmi, it has come on record that she did not saw Applicant in the house throughout the day.

8. In view of the facts as noted above, there is nothing to deny bail to Applicant, who is even otherwise 19 years old and being a

student. Hence, the following order:

- (i) Application is allowed;
- (ii) Applicant shall be released on executing P. R. bond in the sum of Rs. 25,000/- with one surety in the like amount;
- (iii) Applicant shall attend the Mangalvedha Police station on 1st day of each month for a period of 6 months and thereafter once in three months on the 1st day of such month pending trial;
- (iv) It is made clear that learned Trial Court shall not be influenced by any of the observations made hereinabove while evaluating the evidence in the trial.
- (v) Application is disposed of in the aforesaid terms.

Sd/-
[P. N. DESHMUKH, J.]

Vinayak Halemath