

CRIMINAL BAIL APPLICATION NO. 622 OF 2018

Mr. Suvarna Avhad I/by P. J. Salshingikar for the applicant.
Mr. R.M. Pethe, APP for the Respondent-State.
Mr. Nilesh Dhonde, PSI, Sakinaka Police Station is present.

P.C.

1. This is an application for bail under Section 439 of Code of Criminal Procedure in CR No. 393 of 2015 dated 18th July, 2015 registered with Sakinaka Police Station for the offence punishable under Section 302 read with 34 of Indian Penal Code.
2. The prosecution case is that deceased Babu Selvam was the husband of the co accused Riba Babu Selvam. The accused was having relationship with co-accused Riba Selvam. There used to be quarrels between deceased and co-accused. Deceased was hurdle in their love affair and according to the prosecution in the intervening night of 17th July, 2015 and 18th July, 2015, the applicant and co-accused has committed murder of deceased Babu

Selvam. FIR was lodged by the brother of the deceased. On completing investigation, chargesheet has been filed.

3. The cause of probable death is Asphyxia with ligature around the neck. Learned advocate for the applicant submitted that the applicant is in custody for more than three years. Trial is not concluded and it is not clear as to how long it will take to conclude the same. It is submitted that the prosecution case is based on circumstantial evidence and there is no direct cogent evidence against the applicant. Co-accused (wife of the deceased) has been granted bail by the Sessions Court.

3. Learned APP submitted that application preferred by the co-accused i.e wife of the deceased was rejected by this Court vide order dated 24th October, 2016 passed in B.A. No. 647 of 2016. Subsequently, the said accused was granted bail by the lower Court. Learned APP on instructions submitted that four witnesses are examined by the prosecution. There is sufficient evidence against the applicant. It is also pointed out that prosecution is relying on the evidence of child witness who is yet to be examined.

4. I have perused the chargesheet which is annexed to this application. The statement of the child witness i.e son of deceased was recorded on 29th July, 2015 which reflects the presence of the

applicant in the house in the intervening night of the incident. There is recovery of Dupatta at the instance of the applicant from his house. The cause of death is Asphyxia with ligature around the neck. Learned counsel for the applicant however submitted that there were no blood stain on Dupatta. Learned APP however pointed out that there was blood stain found on the T-shirt of the applicant-accused. It is the case of the prosecution that the applicant was having illicit relationship with the co-accused. It is also noted that vide order dated 21st October, 2016 passed in BA No. 647 of 2015, the trial Court was directed to make an endeavour to conclude the trial. Prosecution has examined four witnesses. Learned APP on instructions submitted that the prosecution intends to examine about 15 more witnesses. In view of the aforesaid circumstance, it is noted that the trial Court shall proceed with the trial expeditiously. No case for grant of bail is made out. Application stands rejected. The trial Court is directed to conclude the trial within nine months from today.

(PRAKASH D. NAIK, J.)