

***IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
CRIMINAL BAIL APPLICATION NO. 2995 OF 2017***

Aslam Khalil Shaikh	Applicant
Versus	
The State of Maharashtra	Respondent

Mr. Vikas Balasaheb Shivarkar, for the applicant.
Ms. P.P. Shinde, APP, for the State.

***CORAM : SMT. SADHANA S. JADHAV, J.
DATE : 30th January, 2018.***

P.C. :

1. Heard. This is an application under Section 439 of Cr.P.C. The applicant herein is arrested on 19.3.2016 in Crime No.161 of 2016 registered at Hadapsar Police Station for the offence punishable under Section 302 read with Section 34 of the Indian Penal Code.
2. It is the case of the prosecution that on 17.3.2016, the police had received an information that an abandoned dead body was found near Sunbeam Solar Water heater Co. It was apparent that the said person had died a homicidal death and hence the offence was registered against unknown persons. It is the case of the prosecution that the present applicant

had developed illicit relations with original accused No.2. That deceased was obstructing the said relationship and hence he was eliminated by accused Nos. 1 and 2.

3. It appears from the papers of investigation that the present applicant was seen in the company of original accused No.2 on 16.3.2016 at Margarpatta. On the very next day, the dead body of the husband of accused No.2 was found.

4. The learned counsel for the applicant submits that this is a case for circumstantial evidence. Accused No.2 has been granted bail by the Sessions Court vide order dated 26.7.2016 and hence the applicant also deserves to be enlarged on bail. The cause of death of the husband of accused No.2 is as follows :-

“Shock as a result of Ante-mortem cut throat injury of the neck, with a sharp edged weapon which is sufficient to cause death in ordinary course of nature. All injuries are ante-mortem in nature & recent in origin.”

5. Statement of the brother of the deceased is recorded on 22.3.2016. He has specifically stated that on 16.5.2016, at about 9 p.m., he had been to Margarpatta. At that time, he had seen the original accused No.2. Soon

thereafter, the present applicant had come to the spot in his Indica Car bearing No. MH 12-KN-2656 and his sister-in-law had accompanied him. He had knowledge that there were disputes between the husband and wife due to her relation with the present applicant.

6. The learned counsel for the applicant has drawn attention of this Court to the statement of one Bablukumar Rajkishore, wherein he has stated that on 17.3.2016, at midnight, he had seen the applicant standing next to his Indica Car at the spot where the dead body of deceased Bhanu was lying. The presence of the applicant at the said spot on the given date and time is sufficient to hold that the applicant is involved in the homicidal death of Bhanu.

7. It appears that on 19.3.2016, the statement of the applicant was recorded and he had disclosed that on 15.3.2016, he had received a call from deceased Bhanu and that Bhanu had called him to Chandannagar Bypass. On 16.3.2016, he met Bhanu at 5.30 p.m. He had asked Bhanu to accompany him. he had lunch with deceased near Bharat Forge Co. According to him, Bhanu had smoked ganja. He had also given him alcohol. he had contacted accused No.2 and at that time, they had decided to eliminate Bhanu once and for all.

8. It is pertinent to note that in the post-mortem notes also, column No.8 would show that there was 250 ml. of brownish yellow part fluidy material in the stomach. There was smell of alcohol. Upon perusing the material collected in the course of investigation, this Court is of the opinion that the applicant does not deserve to be enlarged on bail. Hence, the application being sans merits, stands rejected.

(SMT. SADHANA S.JADHAV, J.)