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IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CRIMINAL APPELLATE JURISDICTION

CRIMINAL BAIL APPLICATION NO.38 OF 2019

Sunil Piloba Gadhave

..Applicant.

V/s.

The State of Maharashtra

..Respondent.

Dr.S.S.Karmarkar i/b. Karmarkar & Associates for the applicant.

Mr.N.B. Patil, APP for the respondent-State.

CORAM : NITIN W. SAMBRE, J.

DATE : MARCH 6, 2019

P.C.:-

Heard learned counsel for the applicant and learned APP for the State.

2. After arrest on February 5, 2018 in crime No.23/2018 for offence punishable under section 302 read 34 of the Indian Penal Code registered with Wai police station, Satara, the applicant is seeking regular bail.

3. The submissions are, there are no antecedents against the applicant, the investigation in the matter is complete and case is based on circumstantial evidence. Co-accused Sagar is already

ordered to be released on bail by this Court vide order dated August 29, 2018 in Bail Application No.1886 of 2018.

4. Learned APP submits that the applicant along with co-accused had quarrel with deceased Ganesh, which has resulted into the applicant pressing the neck of the deceased Ganesh which appears to be the cause of death from the post mortem report. Learned APP also relied upon the statements of witnesses particularly about the last seen.

5. Having considered rival submissions, what is noticed is, on the date of the incident deceased Ganesh was accompanying the present applicant and other co-accused and were enjoying liquor.

6. As Ganesh became high under the influence, rest of the witnesses namely Amol, Kiran, Shekhar and Suraj left the spot.

7. Ganesh, infuriated because of the act of the applicant and Sagar in permitting the said witnesses to leave their company, started assaulting both the accused. As such, co-accused Sagar caught hold of the deceased whereas the applicant pressed his neck, which appears to be the cause of death.

8. The statements of the aforesaid four witnesses in

categorical terms establishes the theory of last seen together.

9. The submission that there was no intention to murder, cannot be appreciated at this stage even if such submission appears to be having some substance, particularly in absence of oral evidence.

10. That being so, the application is rejected.

11. If the charge is not framed within six months from today, liberty to the applicant to apply afresh. Hearing of the trial is expedited.

(NITIN W. SAMBRE, J.)