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

**CRIMINAL APPLICATION NO. 11 OF 2019
IN
CRIMINAL APPEAL NO. 275 OF 2017**

Hasan @ Hasan Shaikh Gurudeepsingh Kotra	..Applicant
Vs	
The State of Maharashtra	..Respondent

Mr. Mahesh Zauwar a/w Mr. Parth Maheshwari I/b Mr. Priyal G. Sarda for the Applicant.
Mr. J.P. Yagnik, APP for Respondent-State.

**CORAM : A.S. OKA &
A.S.GADKARI, J.J.
DATE : 28th January 2019.**

P.C.:

- 1] This an Application for suspension of sentence and releasing the applicant on bail.
- 2] Heard the learned counsel for the applicant and the learned APP. Perused the record.
- 3] The applicant, original accused No.3 is convicted under section 302 of the Indian Penal Code for causing death of Parshuram Gawandi. The evidence of Smt. Laxmi Gawandi (PW No.1) wife of deceased Parshuram clearly indicates that, on 14th November 2013 at about 1.00 a.m. the

accused No.1 Daruwalibai (Bhabhi), her son Hasan Shaikh (applicant) knocked her door. The applicant along with the accused No.2 Khemsing thereafter forcibly took Parshuram with them. On the next day in the morning, the dead body of Parshuram found in the house of Khemsing who was staying in the said vicinity. The motive behind the crime propounded by the prosecution is that, the deceased Parshuram had taken hand-loan from Smt. Daruwalibai (Bhabhi) and as the deceased did not repay the said loan, he was assaulted by the accused persons.

4] The learned counsel for the applicant submitted that, except the evidence of last seen together, there is no other evidence on record to connect the applicant with the present crime. He submitted that, the dead body of Parshuram was found in the house of Khemsing and at that time the applicant was not present there. He submitted that the evidence connecting the applicant in present crime is very weak in nature and that during the trial the applicant was granted bail. He, therefore, prayed for suspension of sentence and releasing the applicant on bail.

5] The testimony of Smt. Laxmi Gawandi (PW No.1) i.e wife of deceased Parshuram is clear on the point of abduction of the deceased Parshuram from her house by the applicant and the co-accused Khemsing in

wee hours of 14th November 2013 i.e. at about 1.00 a.m The Medical Officer in his testimony has mentioned about 21 injuries suffered by deceased Parshuram, which are in the nature of contusions and abrasions. The Medical Officer has opined that the probable cause of death was traumatic and heamorrhagic shock due to head injury and multiple blunt injuries over the face, neck, chest, back, buttocks and upper limbs. It is further stated that, the corresponding internal injuries are responsible for death of Parshuram.

6] It is further to be noted here that, the Co-Ordinate Bench of this Court by its Order dated 17th April 2017 passed on Criminal Application No.547 of 2017 has rejected the application for bail of co-accused Khemsing.

7] Prima facie, it appears to us that, the role played by the applicant and Khemsing is similar in nature and no distinction can be made in the roles played by them at this stage. Hence, we are not inclined to grant bail to the applicant.

8] Application is, accordingly, rejected.

(A.S.GADKARI, J.)

(A.S.OKA, J.)