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

CRIMINAL BAIL APPLICATION NO.452 OF 2019

Haridas Babarao Nirgude

...Applicant

Versus

The State of Maharashtra and Anr.

...Respondents

Ms.R.Y.Sapre, for the Applicant.

Ms.Veera Shinde, A.P.P for the Respondent - State.

PSI – L.S.Ghane, Tulinj Police Station, Palghar, is present.

CORAM : REVATI MOHITE DERE, J.

DATE : 7th AUGUST, 2019

P.C. :

1. Heard learned counsel for the parties.
2. By this application, the Applicant seeks his enlargement on bail in connection with C.R.No.165 of 2018 registered with the Tulinj Police Station, Palghar, for the alleged offences punishable under Sections 302, 201 and 376 of the Indian Penal Code.
3. Learned Counsel for the applicant submitted that the except

the postmortem report, there is no material to connect the applicant with the alleged offences. She submits that the applicant is a young boy, aged 21 years and has no antecedents.

4. Learned APP opposed the application.

5. Perused the papers. According to the prosecution, the applicant, aged 20 years, took the deceased to his brother-in-law's room, raped her, and as she started bleeding, went and purchased some clothes and sanitary pads. It is further alleged that when the applicant went back to the room; the deceased refused to go back to her house, pursuant to which the applicant tied her legs and hands and strangled her with a sports shoe lace. The incident is alleged to have taken place at around 5.30 p.m. to 6.00 p.m. The prosecution case rests on circumstantial evidence. The statement of the applicant's brother-in-law shows that he had a room at Nalasopara and that the applicant had taken keys of the said room on 18th February, 2018. The spot panchanama shows that blood stains were found in the room. This is particularly relevant as the body was dumped in the staircase after she was strangled. The statements of two shopkeepers shows that

the applicant had gone to purchase sanitary napkins and clothes, for the deceased (as she was bleeding profusely after the alleged incident of rape). The clothes that were purchased by the applicant from the shopkeeper were found on the person of the deceased. The CDR record shows that the applicant was in touch with the deceased and that his location was at the place, where the incident took place. When the applicant was arrested one return ticket from Vashi, purchased by the deceased was found on his person. The applicant was also found to have blood stains on his clothes when he was arrested. The postmortem report shows that the deceased was strangled and her thyroid cartilage was fractured. The probable cause of death is stated to be 'Asphyxia due to strangulation. Viscera and sample preserved.' A perusal of Column 15 of the postmortem report shows that the vulva was intact, stained with blood. ½ cm X 0.1 cm vertical abrasion, superficial on outer opening of vagina. Hymen is perforated, blood and clots present inside vagina.

6. Considering the material as against the applicant, this is not a fit case to enlarge the applicant on bail.

7. Hence, the application for bail is rejected and disposed of as such.

8. It is made clear, that the observations made herein are *prima facie* for deciding the aforesaid application, and the trial Court shall decide the case on its own merits, in accordance with law, uninfluenced by the observations made in this order.

REVATI MOHITE DERE, J.