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

CRIMINAL BAIL APPLICATION NO.1620 OF 2019

Sunil Motiram Shelavale

...Applicant

Versus

The State of Maharashtra

...Respondent

Ms.Misbaah Solkar h/f Mr.Amin Solkar, for the Applicant.

Mr.A.A.Palkar, A.P.P for the Respondent - State.

CORAM : REVATI MOHITE DERE, J.

DATE : 25th JULY, 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.I – 57 of 2017 registered with the Kulgaon Police Station, Thane Rural, for the alleged offences punishable under Sections 307 and 34 of the Indian Penal Code.

3. Perused the papers. According to the complainant – Kamal Bankar (wife of deceased Dattu Bankar), there was some civil dispute with regard to the property between their family and Shelavale family. She has stated that her husband - Dattu Bankar had visited Ambernath on 4th October, 2017 and on his return informed her that the applicant's father had threatened him that he would file a criminal case against him. She has stated that on 5th October, 2017, her husband – Dattu left home at about 9.30 a.m. She has stated that after some time, one person .came running to her house and informed that Motiram Shelavale (father of the applicant) had administered some medicine to her husband. She has stated that she went to the spot and on reaching the spot, her husband disclosed to her that one person had put a towel on his eyes and Motiram Shelavale administered him a substance. She has stated that her husband had specifically disclosed that he had seen Motiram Shelavale administering him a substance. The deceased was taken to the hospital, where he succumbed to the poison. Accordingly, the complainant lodged a complaint/FIR as against Motiram Shelavale. During the course of investigation, the applicant was also arrested. There is an oral dying declaration made by the deceased - Dattu to the complainant as well as to

Dr.Bhaskar who have specifically stated that Dattu had told them that Motiram Shelavale had administered him poison, pursuant to which, he became unconscious. The deceased – Dattu had not named the applicant, as being present at the spot. No doubt, there are two other eye-witnesses who have stated that the applicant was also present at the spot, however, the allegations are essentially as against Motiram Shelavale i.e. the father of the applicant. The applicant is in custody since 2017. Investigation is complete and charge-sheet is filed.

4. Considering the aforesaid, the application is allowed and the applicant is enlarged on bail on the following terms and conditions:-

ORDER

- i) The Applicant be enlarged on bail on furnishing P.R. Bond in the sum of Rs.15,000/- with one or two sureties in the like amount;
- ii) The Applicant shall attend the concerned Police Station, on the first Saturday of every month, between 10:00 a.m. to 11:00 a.m., till the conclusion of the trial;

iii) The Applicant shall not tamper with the evidence or attempt to influence/contact the complainant, witnesses or any person concerned with the case;

iv) The Applicant shall co-operate in the conduct of the trial and shall attend the trial Court on every date of hearing, unless exempted by the trial Court;

v) An undertaking to the aforesaid clauses (ii) to (iv), shall be filed by the Applicant, in the Registry of the trial Court, within two weeks of his release;

vi) If there are 2 consecutive defaults either in attending the Police Station or in appearing before the trial Court or breach of any of the conditions as stated above, the prosecution will be at liberty to apply for cancellation of Applicant's bail.

5. The Application is allowed and disposed of in above terms.

6. It is made clear, that the observations made herein are *prima facie* and are confined to this application and the learned Judge to decide the case on its own merits, uninfluenced by the observations made herein.

7. All concerned to act on the authenticated copy of this order.

REVATI MOHITE DERE, J.