

...Applicant

...Respondent

Mr. P. H. Gaikwad-Patil, A.P.P for the Respondent-State

**CORAM : REVATI MOHITE DERE, J.**  
**TUESDAY, 6<sup>th</sup> 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. 172 of 2017 registered with the NRI Coastal  
Police Station, New Mumbai, Thane, for the alleged offences punishable  
under Sections 302, 201 of the Indian Penal Code.

3            Learned counsel for the applicant submits that the prosecution case rests on circumstantial evidence and that the material on record does not show the complicity of the applicant in the alleged offence. He submits that the recovery of knife, scissor and the ornaments of the deceased from

the Saloon i.e. Graceful Beauty Care Unisex Saloon is doubtful, considering the fact that the police had come to the Saloon earlier i.e. on 31<sup>st</sup> July 2017 (prior to the recovery dated 1<sup>st</sup> August 2017). He submits that there is nothing to show that the deceased was strangled before her body was decapitated.

4            Learned A.P.P opposed the application.

5            Perused the papers. The prosecution case rests on circumstantial evidence. According to the prosecution, a dead body was found on 31<sup>st</sup> July 2017 in the complainant's field. It appears that while attempting to identify the deceased, her photographs were shown to different people, including Graceful Beauty Care Unisex Saloon at Seawood, Thane. It is the prosecution case that the Managers, on seeing the photographs, stated that the deceased was Mariyam and was working in the said Saloon. Pursuant to what was stated by the employees of the Saloon, the police saw the CCTV footage of the Saloon and found the movements of the applicant, suspicious and thereafter, applicant was arrested on the next day i.e. on 1<sup>st</sup> August 2017. During the course of

investigation, blood-stained knife, scissor, jewellery of the deceased, etc. was recovered at the instance of the applicant. Blood-stains were also found on the Aactiva Scooter, which was being used by the applicant.

6           A perusal of the statements of Savita Chavare, a worker of the Saloon and other co-workers, *prima facie*, show the complicity of the applicant in the alleged incident. According to the said witnesses, all of them left the Saloon on 30<sup>th</sup> July 2017 and that only deceased-Mariyam and the applicant were present at 9:30 p.m. in the said Saloon. Thus, the applicant was last seen with Mariyam. The said witnesses have stated that on the next day i.e. on 31<sup>st</sup> July 2017, when they came to the Saloon, as Mariyam had not reported to work, they tried contacting her on her mobile, however, her phone was switched off. The said witnesses had asked the applicant about Mariyam, however, he did not reply and looked under stress. The said witnesses have further stated that in the afternoon, at about 2:00 p.m, one customer came for massage and one of the witness i.e. Jaya Kadu noticed blood on the mattress, after the said customer left, pursuant to which, the applicant was asked to open the mattress and blood started oozing out from the said mattress. The witnesses have stated that when

they asked the applicant about the blood on the mattress, he told them that he was not aware of the same and left the Saloon. They had further stated that they checked the CCTV footage of the Saloon and found that Mariyam had not left the Saloon on 31<sup>st</sup> July 2017 and that the applicant was alone, when he left the Saloon on 31<sup>st</sup> July 2017 and that his conduct was also suspicious. Thus, there is evidence of last seen the applicant with the deceased in the Saloon on 30<sup>th</sup> July 2017, in the night.

7           Whether or not the recovery is genuine, is a matter which will be decided by the trial Court. *Prima facie*, it appears that pursuant to the disclosure statement made by the applicant, a blood stained knife used in the commission of the offence, scissor, jewellery of the deceased, were seized at the instance of the applicant. The applicant was also found to have sustained certain injuries, albeit, simple i.e. contusion on his forehead on the right side; contusion on the left lateral part of the neck and contusion on the neck posterly left side, possibly due to the resistance offered by Mariyam. The statement of the owner of the Activa Scooter, on which blood-stains were found, also shows that the applicant was using the Scooter. There is CCTV footage which also shows that the deceased did

not leave the Saloon on 30<sup>th</sup> July 2017 and that the applicant left the Saloon alone.

8           Considering the aforesaid, this is not a fit case to enlarge the applicant on bail. The application is accordingly rejected.

9           It is made clear that the observations made herein are *prima facie*, 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.**