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IN THE HIGH COURT OF JUDICATURE AT BOMBAY**CRIMINAL APPELLATE JURISDICTION****CRIMINAL BAIL APPLICATION NO. 2874 OF 2018**

Kumar Nagendra Torgal

.....Applicant

V/s.

The State of Maharashtra

.....Respondent

Ms. Shubhangi Parulekar-Sawant i/b Adv. Ravindra S. Pachundkar
advocate for the applicant

Mr. A. A. Palkar APP for the State

CORAM : NITIN W. SAMBRE, J.**DATE : JANUARY 8, 2019.****P.C.**

Present applicant came to be arrested on 23/08/2016 in crime no. 153 of 2016 registered with Samarth Police Station, Pune for offence punishable under sections 302, 201 r/w 34 of the Indian Penal Code. Applicant is charge-sheeted and charge is already framed against the applicant.

2 While trying to make out a case for bail, the learned counsel

for the applicant would urge that the applicant herein is cited as accused no. 2 and he was co-brother (Wife's real sister's husband) It is claimed that there was no commercial transaction whatsoever between the applicant and the deceased and the only iota of evidence available on the record is that he was last seen together with main accused and the victim before the death of the victim.

3 *Per contra* the learned APP opposed the claim on the ground that on the date of incident, witness Sushil Avchite has seen the applicant in the company of deceased with Ashok, main accused no. 1. According to him, application is liable to be rejected.

4 Considered rival submissions. Case of the prosecution is based on circumstantial evidence and last seen theory.

5 Even if presuming that the statement of witness Sushil implicates the applicant as the person who was seen in the company of the deceased Ganesh, it is an admitted position on record that there was no commercial transactions between the applicant and

deceased Ganesh. Rather applicant was in cordial relations with the deceased as could be inferred from statement of wife of deceased Ganesh. Apart from above, for last more than two years, applicant is behind the bar based on circumstantial evidence and nothing incriminating is seized from the applicant in the crime in question. Charge against the applicant is already framed.

6 The case of the applicant cannot be treated at par with the main accused Ashok who was in commercial transaction with deceased Ganesh.

7 That being so, in my opinion, case for grant of bail is made out. Hence, following order:

ORDER

(I) Application is allowed.

(II) Applicant be released on bail in crime no. 153 of 2016 registered with Samarth Police Station, Pune on furnishing P.R. bond in the sum of Rs. 15,000/- with one surety in the like amount.

(III) Applicant shall not influence or tamper with the evidence.

(IV) Upon failure to attend two consecutive dates before the Trial Court by the applicant will entail the Trial Court to take out proceedings for cancellation of bail.

8 Application stands disposed of.

[NITIN W. SAMBRE, J.]