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

CRIMINAL BAIL APPLICATION NO.3479 OF 2019

Ajay @Subhedar Shrinarayan Sharma	...Applicant
Versus	
The State of Maharashtra	...Respondent

Mr. Nitin U. Jadhav, for the Applicant.

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

CORAM : REVATI MOHITE DERE, J.

DATE : 19th JANUARY, 2021

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-164 of 2019 registered with the Vithalwadi Police Station, Ulhasnagar, for the alleged offence punishable under Section 302 of the Indian Penal Code.

3. Learned Counsel for the applicant submits that the applicant has been falsely implicated in the aforesaid case. He submits that there is a discrepancy in the statements of Aarti Chorge (wife of deceased) recorded

under Section 161 and 164 Cr.PC, with respect to where the alleged dying declaration was made by the deceased to her. He submits that since the deceased had consumed alcohol, which contents were found in his stomach, the possibility of falsely naming the applicant in the oral dying declaration cannot be ruled out.

4. Learned APP opposed the application.

5. Perused the papers. The complainant – Nivrutti Chorge is the father of the deceased – Mithun. According to the prosecution, the incident took place on 14th April 2019 at about 9.00 p.m. in the open ground at Chinchpada Gaon, Kalyan (East). It is alleged that the applicant and the deceased – Mithun were chitchatting, pursuant to which there was a quarrel between the two. It is alleged that the applicant left the spot, brought a knife and assaulted Mithun (deceased) in his stomach. In the postmortem, the cause of death is stated to be ‘Haemorrhagic Shock due to stab injury’. The statement of Aarti (wife of deceased – Mithun) shows that the deceased had disclosed to her on the way to the hospital that the applicant had assaulted him. Soon after the deceased was admitted to the hospital, he succumbed to his stab injury. There is recovery of a bloodstained knife at the instance of the applicant. The statement of Aarti, wife of the deceased is also recorded

under Section 164 Cr. PC. The statement of Vicky Vayle corroborates the statement of Aarti, inasmuch as, the said witness had informed her of the injury caused to her husband, pursuant to which she went to the spot.

6. Considering the material on record *prima facie*, pointing to the applicant's complicity, this is not a fit case to enlarge the applicant on bail. The possibility of the applicant tampering with the witnesses also cannot be ruled out.

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

8. 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.