

Sessions Case No.09 of 2018, has been convicted for the offence punishable under Section 302 of the Indian Penal Code and is sentenced to suffer rigorous imprisonment for life and to pay fine of Rs.1,000/- in default, to suffer rigorous imprisonment for one month. In addition, the applicant has been convicted for the offence punishable under Section 201 of the Indian Penal Code and is sentenced to suffer rigorous imprisonment for two years and to pay fine of Rs.1,000/-, in default, to suffer further simple imprisonment for one month. Both the aforesaid sentences were directed to run concurrently.

4. Perused the papers. The prosecution case rests entirely on the circumstantial evidence. The circumstances alleged by the prosecution are motive, last-seen and recovery. The evidence of PW1 – Sunita Solankar, sister of deceased, is relied upon by the prosecution, in support of the circumstance of motive and last-seen. We have perused the evidence of PW1 – Sunita, sister of deceased. As far as motive is concerned, the said witness has stated that after four months

the deceased had returned home. She has further stated that the applicant used to assault the deceased. The said statement does not spell out any reason for assault or as to why the deceased was assaulted by the applicant. As far as the circumstance of last-seen is concerned, a perusal of the evidence of PW1 - Sunita does not show that the deceased was last-seen in the company of the applicant. The evidence only discloses that the deceased had told the said witness that her husband i.e. the applicant was sitting near the well of one Mohan Kamerikar. The dead body was found on the next day of the incident. Having perused the evidence of PW1, it cannot be said that the applicant was last-seen in the company of the deceased. There is an alleged recovery of a weapon and clothes of deceased, at the instance of the applicant. However, there is no CA report on record. The applicant is in custody since 23rd July 2017. The appeal of the applicant has been admitted by this Court vide order dated 29th March 2022.

5. Considering the evidence on record, the application is allowed and the applicant's sentence is suspended and he is enlarged on bail, pending the hearing and final disposal of the aforesaid appeal, on the following terms and conditions :-

ORDER

- i) The applicant be released on bail on furnishing P.R.Bond in the sum of Rs.10,000/- with one or two sureties in the like amount;
- ii) The applicant shall report to the trial Court, once in six months on the day/date specified by the trial Court, till his appeal is finally disposed of;
- iii) The applicant shall keep the trial Court informed of current address and mobile contact number and/or change of residence or mobile details, if any, from time to time;
- iv) If there are two consecutive defaults in appearing before the trial Court, the learned Judge shall make a report to the High Court

and the prosecution would be at liberty to file an application seeking cancellation of bail.

6. The application is disposed of on the aforesaid terms.

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

V. G. BISHT, J.

REVATI MOHITE DERE, J.