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

CRIMINAL APPEAL NO.35 OF 2024

KALU @ DADA SHRIRANG PAWAR ..APPELLANT
VS.

1. THE STATE OF MAHARASHTRA
2. TINA KALYAN KALE ..RESPONDENTS

Adv. Aniket Nikam i/b. Adv. Amit Icham for the appellant.

Smt. Sangeeta D. Shinde, APP for the State.

Adv. Sushan Mhatre for respondent No.2.

CORAM : M. S. KARNIK, J.

DATE : MARCH 12, 2024

JUDGMENT :

1. Heard learned counsel for the appellant, learned APP for the State and learned counsel for respondent No.2.

2. This is an appeal for quashing and setting aside the impugned order dated 31.10.2023 rejecting the bail application passed by the Additional Sessions Judge, Baramati in connection with FIR bearing C.R. No.251 of 2023 registered with Bhigwan Police Station, District Pune for the offences punishable under Sections 302, 201 of the Indian Penal Code and under Section 3(2)(v) of the Scheduled Castes and the Scheduled Tribes (Prevention of

Atrocities) Act, 1989 (hereafter "Atrocities Act", for short).

3. The date of the incident is 05.06.2023. The complainant who is the daughter of the deceased stated that at around 8.00 p.m. on 05.06.2023, her mother – the deceased left home saying that she will return after taking dinner but she did not return. The complainant made a phone call at about 8.30 p.m. to the deceased when she told her that she is with the appellant and will come home soon. However, she did not return for a long time. The complainant was trying to call her, but she did not pick up the phone. The complainant therefore made a phone call to the appellant but he did not also pick up the phone. On 06.06.2023 at 7.00 a.m. the complainant was informed by her sister that her mother was lying in a burned condition near a brick kiln. The statement of the sister of the deceased was recorded on 06.06.2023. In the statement it is mentioned that the deceased left her house at around 10.00 p.m. on 05.06.2023. In the statement of the sister of the deceased recorded on 08.06.2023, it is stated by her that on 06.06.2023 after she noticed that her sister had

died, she called up the appellant. The appellant told on telephone that she should not name anybody as this may cause harassment to him. This is one of the material against the appellant.

4. It is the allegation of the prosecution that there were monetary transactions between the appellant and the deceased. It appears that the appellant and the deceased were in a relationship and the appellant had promised to look after the deceased and her daughters. However, despite taking money from the deceased, the appellant was not taking care of the deceased and her daughters. The other material against the appellant is the recovery of an iron rod at his instance from a bush near the spot where the body was found. The iron rod is not blood stained. The cause of death is due to compression of the neck.

5. Learned APP vehemently opposed the appeal. It is submitted that there are strong circumstances pointing to the guilt of the appellant. It is submitted that the appellant has a strong motive to kill the victim as he had taken money from the deceased which he was not willing to return

back.

6. The case is based on circumstantial evidence. The circumstances against the appellant is the extra judicial confession which only mentions that appellant asked the sister of deceased not to mention anyones name to the police as that will land him in trouble. There is a recovery of an iron rod at the appellant's instance from a bush near the spot where the body was found. The iron rod is not blood stained. The appellant was arrested on 07.06.2023. The appellant is now in custody for nine months. The investigation is complete and the charge-sheet has been filed. There are no criminal antecedents reported against the appellant. In the facts and circumstances of the present case I am inclined to enlarge the appellant on bail but by imposing stringent conditions. The appellant does not appear to be a flight risk.

7. Learned counsel for the appellant on instructions submitted that the appellant will not enter the area of Pune district till further orders of the trial Court.

8. Hence, the following order :-

ORDER

- (a) The Criminal Appeal is allowed.
- (b) The impugned order dated 31.10.2023 passed by the Additional Sessions Judge, Baramati is quashed and set aside.
- (c) The appellant-Kalu @ Dada Shrirang Pawar in connection with FIR bearing C.R. No.251 of 2023 registered with Bhigwan Police Station, district Pune shall be released on bail on his furnishing P.R. Bond of Rs.25,000/- with one or more sureties in the like amount.
- (d) The appellant shall attend the Investigating Officer of Bhigwan Police Station, Pune once in three months every first Monday of the concerned month between 11.00 a.m. and 1.00 p.m. commencing April 2024.
- (e) The appellant shall not directly or indirectly make any inducement, threat or promise to any person acquainted with the facts of the case so as to dissuade him from disclosing the facts to Court or any Police Officer. The appellant shall not tamper with evidence.
- (f) On being released on bail, the appellant shall furnish his contact number and residential address to the Investigating Officer and shall keep him updated, in case there is any change.

(g) Except for the purpose of attending the Court proceedings and reporting to the Investigating Officer, the appellant shall not enter the area of Pune district after being released on bail, till the trial concludes.

(h) The appellant shall attend the trial regularly. The appellant shall co-operate with the trial Court and shall not seek unnecessary adjournments.

9. The Criminal Appeal is disposed of.

10. I express my gratitude for the able assistance rendered by advocate Sushan Mhatre representing the respondent No.2. His engagement be regularised by the Maharashtra State Legal Services Authority.

(M. S. KARNIK, J.)