

Dond

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

CRIMINAL APPLICATION NO.990 OF 2015
IN
CRIMINAL APPEAL NO. 820 OF 2015

Mukarramali Masarratali Khan

..Applicant

Vs.

The State of Maharashtra

..Respondent

WITH

CRIMINAL APPEAL NO.513 OF 2014

Mr. S.G. Kudle, for Applicant.

Mr. H.J. Dedhia, APP for the State.

**CORAM: SMT. V.K. TAHILRAMANI, Acting C.J. &
A.S. GADKARI, J.**

16th September, 2015

P.C.:

Heard learned Counsel for the applicant-original
accused no.1 and the learned APP.

2 The applicant has been mainly convicted under Section
302 read with Section 34 of IPC. The applicant is now seeking
bail.

3 There is no eye-witness to the incident. The prosecution has relied on two circumstances against the appellant i.e. last seen and recovery of certain articles at the instance of the applicant. As far as last seen is concerned, prima facie in our opinion the Trial Court for cogent reason has disbelieved the circumstance of last seen. Thus, the only circumstance which remains against the applicant is recovery of the articles. It is prosecution case that some of the articles recovered from the appellant were belonging to the deceased. However, as far as recovery is concerned, prima facie we find that there is discrepancy in the identification of these articles e.g. what is recovered from the applicant is pieces of chain but what is identified by the witnesses is chain and not pieces of chain.

4 In view of the above, we are inclined to grant bail to the applicant. Hence, the following order:

The Applicant-Mukarramali Masarratali Khan to be released on bail on executing P.R. Bond in the sum of Rs.35,000/- with one surety in the like amount. During the period that Applicant-Mukarramali Masarratali

Khan is on bail, he will report to MRA Marg Police Station once in a week.

5 The Application is allowed in the above terms.

(A.S. GADKARI, J.)

(ACTING CHIEF JUSTICE)

CERTIFICATE

Certified to be true and correct copy of the original signed order.

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