

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

CRIMINAL APPLICATION NO.1097 OF 2015
IN
CRIMINAL APPEAL NO.69 OF 2013

Firoz Muslim Jambura	 Applicant
<i>Versus</i>	
The State of Maharashtra & Anr.	 Respondents

Mr. Mooman H. Ebrahim for the Applicant.

Mrs. A.S. Pai, A.P.P., for the Respondent-State.

CORAM : SMT. V.K. TAHILRAMANI, ACTING C.J. &
DR. SHALINI PHANSALKAR-JOSHI, J.

DATE : 30TH NOVEMBER 2015.

P.C. :

1. Perused the entire record of the Appeal.

2. Applicant herein is original Accused No.3, who has been convicted for the offences punishable under Section 396 r/w. 120B, 449 and 347 r/w. 34 of IPC. The maximum punishment imposed on him by the Trial Court is of imprisonment for life.

3. His earlier Bail Application No.1158 of 2014 is rejected by this

Court on 12th January, 2015 on merits. Since then, there is no change in the circumstances so as to reconsider the application, even then we have heard at length the learned counsel for the Applicant Mr. Ebrahim and learned A.P.P. and find that there is no reason to take any other view of the matter, mainly because there is evidence of eye-witness PW-30 Ajay Bende, who had seen the Applicant at the time of incident and he has also identified him in the Test Identification Parade and also in substantive evidence before the Court. The submission that he has not attributed any role to the Applicant, at this stage, cannot be accepted to release the Applicant on bail.

4. There is also the evidence relating to the recovery of stolen gold articles, four gold Bangles and two Mangalsutras, proved through the evidence of PW-12 the Panch Nasir Mushtaq Shaikh. Further, there is crucial evidence of the D.N.A. proving that the D.N.A. Profile of the Applicant matched with the spitted Gutkha collected from the scene of offence.

5. In the light of this evidence on record and considering that the

Applicant was not on bail during the trial, we are not inclined to suspend his substantive sentence of imprisonment and enlarge him on bail.

6. The application, therefore, stands dismissed.

[DR. SHALINI PHANSALKAR-JOSHI, J.] [ACTING CHIEF JUSTICE]