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IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

BAIL APPLICATION NO. 545 OF 2016

Roshan Javed Shaikh @ Mamu

..Applicant

Vs.

The State of Maharashtra

..Respondent

Mr. Prashant Malik i/b Jayesh A. More for applicant.

Ms. S.S. Kaushik, APP for State.

Mr. Suhas B. Naik, API, Bandra Railway Police Station present.

CORAM: A.S. GADKARI, J.

DATE : 13th October 2016.

P.C.

1 This is an application under Section 439 of Cr. P.C. for bail in CR No.155 of 2015 registered with Bandra Railway Police Station, Mumbai dated 26.8.2013 under Sections 394, 308 read with 34 of the Indian Penal Code and under Sections 152, 150(E) of the Indian Railways Act.

2 Heard the learned counsel for the applicant, the learned APP and also perused the entire chargesheet annexed to the application.

3 The first information report is lodged by Smt. Nasreen Khan. It is the prosecution case that the complainant was travelling by suburban railway local train from Andheri to Churchgate on 26.8.2015 and was intending to get down at Mahim railway station and hence was standing in the door of the local train. When the said train was proceeding towards Mahim from Bandra creek at about 9.25 a.m., somebody was standing on the nearby pole of railway track, pulled her purse/bag which was hung on her shoulder. Due to jerk, the complainant failed down from the running train. After she failed down, one person snatched her purse and gold chain from neck and ran away. The complainant was admitted to the hospital by Police. The complainant suffered fractures to thigh, neck and hand bones and was admitted to Bhabha Hospital, Bandra from 26.8.2015 to 11.10.2015. After lodgment of the first information report, during the course of investigation the applicant came to be arrested on 12.9.2015 and after completion of investigation have submitted chargesheet.

4 The record reveals that the mobile phone of the complainant was seized from Mr. Hasib Khan who had purchased it from the present applicant. The police had kept the said mobile under observation and in view of the location of the phone, the applicant came to be apprehended by

the police. The learned APP on instructions submitted that when police went to the spot for apprehending the applicant, the co-accused namely Salim @ Babloo was with him. However, after sensing the danger of presence of police, he ran away and till date the said co-accused Salim @ Babloo is absconding. It is the specific case of the prosecution that the applicant sold the mobile phone of the victim Smt. Nasreen Khan to Mr. Hasib Khan on the date of incident itself.

In view of the above, the prosecution has made out a strong prima facie case about the complicity of the applicant in the present crime. As stated earlier, the co-accused is still absconding and if the applicant is released on bail, he may join the company of the co-accused and will indulge in the similar type of crime. The gullible travellers of the suburban local trains are being targeted by accused persons by robbing their valuables. The victim is one of such person who has suffered grievous injuries and was hospitalized for more than fifty days.

5 After taking into consideration the aforesaid aspect of the matter, serious nature of the offence and gravity of the offence, this Court is of the view that this is not a fit case to release the applicant on bail. Application is accordingly dismissed.

6 The observations made hereinabove are prima facie in nature and in context of deciding the present application and the same may not come in the way of applicant while conducting the trial.

(A.S. GADKARI,J.)