

IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CRIMINAL APPELLATE JURISDICTION

CRIMINAL APPLICATION NO.535 OF 2017

IN

CRIMINAL APPEAL NO.319 OF 2017

Dharmesh @ Dharmendra Sant

Bakshsingh

.....Applicant

V/s.

The State of Maharashtra

.....Respondent

Mr. Kapil Dave i/by Mr. Prajit S. Manjrekar , Advocates for Applicant.

Mr. H.J.Dedhia, APP for Respondent-State.

**CORAM : SMT. V.K. TAHILRAMANI, &
SANDEEP K. SHINDE, JJ.**

DATE : July 13, 2017.

P.C. :

Heard the learned counsel for the applicant and the learned APP for the State.

2 The applicant has been mainly convicted under Section 302 of IPC for causing death of one Vimla on 24.4.2014 by strangulation. There is no eye witness to the incident. The only evidence against the applicant is that there was recovery of gold chain of the deceased at his

instance. As far as this aspect is concerned, the learned counsel for the applicant pointed out that there is only one gold chain involved in this case and the evidence of Shivani who was relative of Vimla shows that when she went to the flat of the deceased, chain was around the neck of the deceased and the deceased was lying dead.

3 The learned counsel for the applicant submitted that the evidence of recovery cannot be relied upon in view of the evidence of pancha witness, namely, P.W.3-Chandrakant. He drew our attention to paragraph 11 of the evidence of the pancha witness who has stated that when he went to the police station, police told him that some clothes and some gold chains are to be recovered. Police told him that they have to go to Sundarwadi. It was submitted that this shows that the police were already aware of what was to be recovered, hence, circumstance of recovery does not appear to be genuine.

4 In addition, the learned counsel for the applicant submitted that the evidence of P.W.5-Bhupendra Jain who is

jeweller shows that the applicant showed him piece of gold chain. On the next date, he melted the same with the other gold and prepared a bar. It was submitted that in such case, evidence of P.W.1-Shivani and other witnesses identifying pieces of gold chain becomes suspicious.

5 As stated earlier, the only evidence against the applicant is the circumstance of recovery of pieces of gold chain. There is no other evidence which connects the applicant to the crime. In this view of the matter, we are inclined to grant bail to the applicant, hence, the following order:

(I) Applicant be released on bail in the sum of Rs.35,000/- with one or two sureties to make up the said amount and PR Bond in the like amount.

(II) During the period while the applicant is on bail, he shall report to Versova Police Station once in a month i.e, on the first Monday of every month.

6 Application is allowed in the above terms.

(SANDEEP K. SHINDE, J) (SMT. V.K. TAHILRAMANI, J)