

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY  
CRIMINAL APPELLATE JURISDICTION  
CRIMINAL BAIL APPLICATION NO. 1612 OF 2017**

Rahul Bhimrao Rathod

...Applicant

Versus

The State of Maharashtra

...Respondent

Mr. Vikrant V. Phatate for the Applicant

Ms. P. P. Shinde, A.P.P for the Respondent-State

API Mr. Ghansham R. Ballal from Kamathi Police Station, Solapur, is present

**CORAM : REVATI MOHITE DERE, J.**  
**FRIDAY, 28<sup>th</sup> JULY, 2017**

**P.C. :**

1. Heard learned Counsel for the parties.
2. By this application, the applicant seeks his enlargement on bail in connection with C.R. No. 39 of 2015 registered with the Kamathi Police Station, Solapur, for the alleged offences punishable under Sections 302, 307, 397, 34 of the Indian Penal Code.
3. Learned Counsel for the applicant submitted that the material on record does not show the complicity of the applicant. He submitted that the prosecution case rests on circumstantial evidence and that none of the circumstances point to the guilt of the applicant. He further submits that

although the applicant has been identified, in the Identification Parade, the said identification parade suffers from several defects, which go to the root of the matter. He also submits that the identification parade was held after two months of the incident. He submits that the applicant has no antecedents.

4. Learned A.P.P opposes the application. She submits that the applicant has shown the spot where the incident had taken place. She submits that even otherwise, the trial has commenced, inasmuch as, charge has been framed as against the applicant.

5. Perused the papers. According to the complainant-Reshma, she and her elder sister-Sunanda hitched a ride in a Cruiser Jeep, on 3<sup>rd</sup> May, 2015. She has stated that there were four persons sitting in the car. She has stated that when they sat in the car, one person sat next to them and one person went and sat on the seat behind them. She has stated that after some time, the person who was sitting behind, put a rope around her neck and tried to strangle her, pursuant to which, she became unconscious. She has stated that when she regained her consciousness, she found herself lying in the agricultural field and found that all her belongings were

missing. She has stated that even her sister-Sunanda was lying next to her and that she had injuries on her neck. Pursuant thereto, the aforesaid complaint was lodged as against the unknown persons. It appears that the applicant had shown the spot where the body was thrown. It also appears that in the test identification parade which was held on 17<sup>th</sup> July, 2015, the applicant has been identified. It also appears that trial has commenced and charge has been framed and the matter is posted for recording of evidence of the witnesses.

6. Considering the material *qua* the applicant and the fact that the trial has commenced, this is not a fit case to enlarge the applicant on bail. The application is rejected. It is expected that the learned Sessions Judge will conclude the case as expeditiously as possible, since the trial has already commenced.

7. It is made clear that the observations made herein are *prima facie*, and the trial Court shall decide the case on its own merits, in accordance with law, uninfluenced by the observations made in this order.

**REVATI MOHITE DERE, J.**