

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
CRIMINAL BAIL APPLICATION NO. 1562 OF 2016

Kailashsingh Nanaksingh Dudhani ...	Applicant
Vs.	
The State of Maharashtra ...	Respondent

Mr.Abhaykumar Apte,Advocate for the applicant.

Mrs.P.P.Shinde,APP, for the State.

Mr. Subhash S. Pujari, API, Crime Branch, Navi Mumbai present.

CORAM: SMT.SADHANA S.JADHAV, J.
DATE : 19th January, 2017.

P.C.

Heard. This is an application under Section 439 of Cr.P.C.
The applicant herein is arrested on 28.1.2016 in Crime No.60 of 2009 registered at D.B.D. Police Station for the offences punishable under Section 396, 397, 342 of the Indian Penal Code read with Sections 37(1) and 135 of the Bombay Police Act.

2. It is the case of the prosecution that on 18.4.2009, Samir Mahadeo Lad lodged a report at the police station alleging therein that on that day he was sleeping in his house along with other family members. At about 2.30 a.m. four persons entered into his flat by breaking open the door. They had brandished their weapons to all family members. They had attacked Sanjay the brother of the complainant with a knife and rod. The

applicant had stolen golden chain worth Rs.15,000/-. Sanjay had succumbed to the injuries and thereafter the first information report was lodged. The first informant had given the description of the said persons. Two of the persons had been apprehended on the spot. The persons who were apprehended on the spot are Shaktisingh and Badshahsingh. The first informant had specifically stated that in the eventuality he is shown the other accused persons, he would be able to identify them. On 28.1.2015, the applicant was arrested as he was absconding. The incriminating material against the present applicant is that he was identified by the complainant at the test identification parade.

3. The learned counsel for the applicant vehemently submits that it is apparent from the panchnama the test identification parade, the Executive Magistrate has not followed the guidelines contemplated in the Criminal Manual. Appearance of the dummies who were placed for test identification parade along with the present applicant did not have similar features. Moreover, the applicant was the only person who had a small turban on his head from which he could be easily identified.

4. The material in the nature of test identification parade is a

corroborative piece of evidence.

5. The learned APP submits that the applicant has criminal antecedents. He was absconding for more than six years. The co-accused who were involved in the said incident are convicted for life for the offence punishable under Section 302 of IPC. One of the accused has jumped bail and is absconding. Hence, it would not be appropriate to consider the application for grant of bail. The liberty of an individual cannot outweigh safety and security of the public at large. Hence, the application being sans merits, stands rejected.

(SMT. SADHANA S.JADHAV, J.)