

IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CRIMINAL APPELLATE JURISDICTION

CRIMINAL APPLICATION NO.37 OF 2018

IN

CRIMINAL APPEAL NO.715 OF 2017

PRAKASH SATYANARAYAN SHARMA)...APPLICANT

V/s.

THE STATE OF MAHARASHTRA)...RESPONDENT

Ms.Sushma Nair, Advocate for the Applicant.

Mr.S.V.Gavand, APP for the Respondent - State.

CORAM : A. M. BADAR, J.

DATE : 25th JANUARY 2018

P.C. :

1 This is an application for suspension of sentence and releasing the applicant/accused on bail during pendency of the appeal filed by him. The applicant/accused is convicted of the offence punishable under Section 397 read with 34 of the Indian Penal Code and is sentenced to suffer rigorous imprisonment for 10 years apart from imposition of fine and sentence in default.

2 Heard the learned advocate appearing for the applicant/accused for sufficient length of time. She posed several questions such as, why the applicant/accused was arrested after nine months, why the applicant/accused would commit robbery of such petty sum by coming to Rajasthan. The learned advocate further argued that there is discrepancy in the matter of recovery of gold and the recovery is not in the same form. There is no eye witness to the incident.

3 The learned APP opposed the application.

4 I have carefully considered the rival submissions and also perused the impugned judgment and order of conviction and the resultant sentence, as well as copies of deposition of prosecution witnesses.

5 The applicant/accused along with a juvenile in conflict with law, according to the prosecution case, came to the house of

the First Informant. She is relative of the present applicant/accused. After chitchatting with her for sometime, it is alleged that, the applicant/accused put a bedsheet on her head, pressed her neck, assaulted her by means of a knife and looted gold and silver ornaments as well as cash.

6 Version of First Informant PW1 Soni Sharma, who lodged the First Information Report (FIR) is in tune with her FIR and she has identified the applicant/accused while in dock.

7 Version of PW1 Soni Sharma is duly corroborated by evidence of PW8 Dr.Santosh Kembhavi, Medical Officer at Shastri Nagar Hospital. His version shows that First Informant / PW1 Soni Sharma had suffered several multiple incised wounds over her neck apart from other injuries. Evidence of Dr.Santosh Kembhavi shows that those cannot be self inflicted injuries to frame the applicant/accused in the crime in question. Evidence of PW4 Nirmal Soni, owner of the jewellery shop, shows that the applicant/accused had sold some gold Mangalsutra and silver

coins to him on the pretext that this wife was ill. Variations in quantity is of no assistance at this stage.

8 It is well settled that evidence of injured witness cannot be jettisoned because of minor discrepancy and such witness stands in higher pedestal.

9 Considering the nature of offence and the manner in which it was committed, no case for grant of bail is made out.

10 The application is rejected.

(A. M. BADAR, J.)