

IN THE HIGH COURT OF JUDICATURE AT BOMBAY**CRIMINAL APPELLATE JURISDICTION****BAIL APPLICATION NO. 392 OF 2018**

Rahul Khemchand Singh

....Applicant.

Vs.

The State of Maharashtra

....Respondent.

Mr. Niranjan Mundargi I/by S.R. Pathak for the Applicant.

Mr. V.V. Gangurde APP, for the Respondent-State.

CORAM : A. S. GADKARI, J.

DATE : 25th JULY, 2018.

P.C.:-

This is an Application under Section 439 of the Code of Criminal Procedure for bail in CR No. 365 of 2017 dated 23rd September, 2017 registered with Shivaji Nagar Police Station, Govandi, Mumbai under Sections 302, 392, 449, 176, 411 read with Section 34 of the Indian Penal Code.

2 Heard the learned counsel appearing for the Applicant and the learned APP. Perused the charge sheet.

3 The prosecution case in brief is that, the Applicant along with two other co-accused committed criminal trespass in the rationing shop of the first informant Shri. Sudarshan Gupta, when the

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deceased Smt. Bhanumati Gupta was alone present. That, the Applicant along with other co-accused persons committed murder of the said Bhanumati Gupta and robbed valuable articles, ornaments and cash totalling to Rs.4,04,000/- from the said shop. During the course of investigation, the Applicant came to be arrested on 25th September 2017, and after completion of the investigation, the police have submitted charge-sheet.

4 The prosecution has propounded two major circumstances against the Applicant namely; (i) a witness, saw the Applicant along with two other accused persons entering into the said shop, just prior to commission of the offence and (ii) recovery of a finger ring of deceased and cash of Rs.5,500/- at the instance of the Applicant under Section 27 of the Evidence Act.

As far as the first circumstance of the Applicant along with other accused persons entering into the shop is concerned, it is to be noted here that the Applicant came to be arrested on 25th September 2017 and the statement of the said witness namely Shri Pannalal Gupta has been recorded by the police on 6th October, 2017 i.e. approximately after the period of 11 days from the date of arrest of the Applicant. The statement of the said witness is silent about the

delay in giving information to the police by him immediately after coming to his knowledge about the crime.

The second circumstance of recovery of finger ring of deceased and cash amount of Rs.5,500/- at the behest of the Applicant is concerned, it is to be noted here that there are no identification marks on the said currency notes to infer that, the amount recovered from the Applicant was in fact the amount robbed from the deceased and therefore, *prima facie* the only circumstance of recovery of finger ring of the deceased at the instance of Applicant exists on record at this stage.

5 In view of the above, the Applicant can be released on bail.

Hence the following order:-

- a) The Applicant be released on bail in CR No. 365 of 2017, registered with Shivaji Nagar Police Station, Govandi, Mumbai, on his furnishing PR bond of Rs.25,000/- with one or two solvent local sureties in the like amount.
- b) After his release from Jail, the Applicant shall attend the Shivaji Nagar Police Station, Govandi,

Mumbai, on every first Monday of the month
between 11.00 a.m. and 1.00 p.m.

- c) The Applicant shall attend all the dates before the
Trial Court unless precluded on medical reasons.
- d) The Applicant shall not tamper with the evidence
and/or pressurize the prosecution witnesses.

6 Application is allowed in the aforesaid terms.

(A.S. GADKARI, J.)