

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION**

BAIL APPLICATION NO.613 OF 2018

Vinod Laxman Jaibhaye

... **Applicant**

V/s.

The State of Maharashtra

... **Respondent**

Mr. R.D. Salve for the Applicant.

Mr. Ajay Patil, APP for the Respondent State.

CORAM : A.S.GADKARI, J.

DATE : 30th JULY 2018

P.C.:

1. This is an application under Section 439 of the Cr.P.C. for bail in C.R.No.231 of 2017 dated 16.06.2017 registered with Park Site Police Station, Mumbai under Sections 394, 302 and 411 r/w.34 of the Indian Penal Code.
2. Heard the learned counsel for the applicant and the learned APP. Perused the charge-sheet.
3. The applicant is Accused No.3 in the present crime. The prosecution case in brief is that, on 14.06.2017 at about 11.00 p.m., the applicant alongwith other accused persons engaged an auto-

rickshaw of Mr. Kapursingh S. Chauhan (deceased) from IIT Powai to Kannamwar Nagar, Vikhroli, Mumbai. That, when the said auto-rickshaw came near Gandhi Nagar Bridge, the occupants of the said auto-rickshaw directed the driver to stop it on the pretext of attending nature's call. The accused persons thereafter robbed the said driver and when he tried to oppose accused persons a scuffle took place and the accused pushed him from the bridge. Due to rains and slippery surface, the deceased fell down on the railway track of the bridge. Due to the injuries suffered by the deceased to his waist, he could not get up and as it was night time nobody came to his rescue. On next day at about 6.30 a.m. some pedestrians noticed the injured and took him to the hospital. The deceased succumbed to injuries on 06.08.2017.

During the course of investigation, the applicant came to be arrested on 06.09.2017 and after completion of investigation, the police have submitted charge-sheet.

4. The record *prima facie* indicates that, the only evidence available against the applicant is a statement of co-accused recorded under Section 27 of the Indian Evidence Act, 1872. There is no recovery at the instance of the applicant.

5. In view thereof, the applicant can be released on bail.

Hence, the following order.

a) The applicant be released on bail in Cr.P.C. for bail in C.R.No.231 of 2017 dated 16.06.2017 registered with Park Site Police Station, 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 Park Site Police Station on every first Monday of the month between 11.00 a.m. to 1.00 p.m. till conclusion of trial.

c) The applicant shall attend all the dates before the Trial Court unless precluded for 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.)