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

**CRIMINAL APPLICATION NO.730 OF 2018
IN
CRIMINAL APPEAL NO.523 OF 2018**

Mahesh Purushottam Makhi	..Applicant
Versus	
State of Maharashtra	..Respondent

Mr. Niranjan Mundargi i/by Mr. S. B. Deshmukh and Mr. Ajinkya Udane, Advocate for the Applicant.

Mr. J. P. Yagnik, Advocate for Respondent - State.

**CORAM: B. R. GAVAI &
SARANG V. KOTWAL, JJ.**

DATE: 20th JUNE, 2018

P.C.:-

1] This is an application for suspension of sentence and grant of bail.

2] Mr. Niranjan Mundargi, learned Counsel appearing on behalf of the Applicant, submits that the case is based on circumstantial evidence. He submits that, in a case based on circumstantial evidence, unless the prosecution proves each and every incriminating circumstance beyond reasonable doubt and also establishes a chain of events, which leads to no other conclusion than the guilt of the accused, the order of conviction would not be sustainable. The

learned Counsel submits that, the Applicant was on bail during trial and as such, this circumstance would also be taken into consideration by the Court.

3] In view of the law laid down by the Apex Court in the case of *Kishori Lal vs Rupa and Others*¹ even if the Accused was on bail during trial, the circumstance after his conviction could change, inasmuch as there would be finding of guilt recorded by the competent Court. As held by the Apex Court in the case of *Niranjan Singh vs. Prabhakar Rajaram Kharote*², detailed elaboration of evidence, at this stage, will have to be avoided.

4] Perusal of material placed on record would reveal that, after occurrence of the incident, Appellant had himself surrendered and confessed about his crime. No doubt, that confession made to Police Officer would be inadmissible in evidence. However, conduct of the accused of producing himself in the Police Station alongwith incriminating material would be a relevant circumstance in view of Section 8 of the Indian Evidence Act. Apart from that, Chemical Analyzer's report corroborates the prosecution case. We are therefore not inclined to entertain the Application at this stage.

5] Application is therefore rejected.

(SARANG V. KOTWAL, J.)

(B. R. GAVAI, J.)

1 (2004) 7 SCC 638

2 1980 Vol2 SCC 559