

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

**BAIL APPLICATION NO. 2025 OF 2017**

Mr. Shivkumar Rajendraprasad Dubey                      ... **Applicant**

**V/s.**

The State of Maharashtra                                              ... **Respondent**

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Mr. Kamlesh Gujar for the Applicant.

Mr. S.S. Hulke, APP for the Respondent/State.

**CORAM : A.S.GADKARI, J.**

**DATE : 1<sup>st</sup> FEBRUARY, 2018**

**P.C.:**

.        This is an application under Section 439 of Cr.PC. for bail in C.R. No. 63 of 2017 dated 03.03.2017 registered with Kandivali Police Station, Mumbai under Sections 302 read with Section 34 of the Indian Penal Code.

2        Heard the learned Counsel for the Applicant, the learned APP and perused the charge-sheet.

3        It is the case of the prosecution that, Applicant along with other accused persons were employed in a shop namely Adhuraam Enterprises. That, on 03.03.2017 at about 3.30 a.m., the Applicant along with other two accused persons were sleeping inside the said shop and shutter of the said shop was pulled down. That, at about 3.30 a.m. the deceased Maksud Shafatulla Khan along with his accomplice by pulling the said shutter up to a certain extent

entered into the said shop with a view to commit theft therein. At that time, the Applicant and other accused persons woke up and prevented him. The Applicant and other accused persons tried to catch hold of the deceased inside the shop, when he fallen down, however the accomplice of the deceased tried to pull the deceased outside the shop and during the said scuffle, the shutter of the said shop fell on the neck of the deceased thereby causing his death. During the course of investigation, the Applicant came to be arrested on 03.03.2017 and after completion of investigation, the police have submitted charge-sheet.

4 After perusing the record, it prima facie appears that Applicant and other accused persons did not have intention to kill the deceased and it is in the said scuffle or in the said attempt by the accomplice of the deceased to pull him outside the shop and to save him from the clutches of the Applicant and co-accused, the said incident has taken place. As noted earlier, it appears that there was no intention of the Applicant and other accused persons to commit culpable homicide of the deceased.

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

Hence, the following order:-

- i) The applicant be released on bail in C.R. No. 63 of 2017 dated 03.03.2017 registered with Kandivali Police Station, Mumbai on his furnishing PR bond of Rs.25,000/- with one or two solvent local sureties in the like amount.
- ii) After his release from jail, the applicant shall attend concerned Police

Station on every first Monday of the month between 10.00 a.m. to 12.00 noon.

- iii) Applicant shall also attend all the dates before the Trial Court.
- iv) The Applicant shall not tamper with the evidence and/or pressurize or threaten the prosecution witnesses.
- v) Application is allowed in the aforesaid terms.

**(A.S.GADKARI, J.)**