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

BAIL APPLICATION NO.2514 OF 2017

Amitkumar Ravindraprasad Pandey

..Applicant

Vs

The State of Maharashtra

..Respondent

Mr. Kuldeep S. Patil for applicant.

Ms. J.S. Lohokare, APP for State.

CORAM : A.S.GADKARI, J.

DATE : 2nd July 2018.

P.C.:

1] This is an application under Section 439 of Cr. P.C. for bail in CR No.I-35 of 2017 dated 23.2.2017 registered with Vishnunagar Police Station, Dombivli, District- Thane under Section 302, 326 read with 34 of the Indian Penal Code.

2] Heard the learned Counsel for the applicant and the learned APP. Perused the record of investigation.

3] It is the prosecution case that, the applicant on 23.2.2017 in the late night under the influence of liquor got down at Kopar Railway station. The applicant was in inebriated condition and semi-unconscious state of

mind. After some time when the applicant gained senses, he realised that his mobile phone and other articles are stolen by somebody. He got suspicious about deceased Shri Ashok Gupta, a watchman of ATM of Bank of India situated near the said railway station. When asked by the applicant about the loss of his articles, the deceased Ashok Gupta drove him away from the said place. Being enraged by the said act, it is alleged the applicant assaulted Ashok Gupta with fist and kick blows and thereafter pushed deceased Ashok Gupta from staircase of the bridge and again assaulted him with fist and kick blows. The first informant Shri Chetan Shukla who was residing in the adjoining building saw the incident and questioned the applicant as to what he is doing, upon which the applicant fled away from the scene of offence. The watchman of the said building and the first informant gave call to the police and in pursuance thereof police arrived at scene of offence. The applicant was searched and was apprehended from the railway station itself. The deceased Ashok Gupta was taken to the Hospital and was under treatment for about six days. The deceased succumbed to injuries on 1.3.2017 and therefore Section 302 of the Indian Penal Code is added to the present crime. The applicant was arrested on 23.2.2017 and after completion of investigation the police have

submitted chargesheet.

4] Perusal of chargesheet and the statements of the witnesses would indicate that, as the articles of the applicant were stolen by somebody when he was in semi-conscious state of mind and sleeping on the railway platform, the applicant got suspicious about the watchman Shri Ashok Gupta (deceased) who was in the closed proximity and asked him about the same. As the said Ashok Gupta drove him away from the said place, the applicant got enraged and under the said fit of rage, assaulted the deceased with a wooden log. After the first informant raised hue and cry about the situation at the said spot, the applicant hide himself on railway platform itself. The deceased succumbed to injury on 1.3.2017. After completion of investigation, the police have submitted chargesheet.

Prima facie, it appears that, while assaulting the deceased, the applicant did not have intention to commit murder of the deceased and it is only in the fit of rage, he assaulted deceased.

5] In view thereof, and the peculiar circumstances of the present case, I am inclined to release the applicant on bail.

Hence the following Order:-

i] Applicant be released on bail in CR No.I-35 of 2017 registered

with Vishnunagar Police Station, Dombivli, District- Thane on his furnishing PR bond of Rs.25,000/- with one or two solvent local sureties in the like amount.

ii] Applicant shall attend the Investigating Officer on every 1st Monday of the month between 11.00 a.m to 1.00 p.m and to join the process of investigation

iii] Applicant shall also attend all the dates before the Trial Court without any excuse.

6] Application is allowed in the aforesaid terms.

(A.S.GADKARI, J.)