

IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CRIMINAL APPELLATE JURISDICTION

CRIMINAL APPLICATION NO.203 OF 2019

IN

CRIMINAL APPEAL NO.202 OF 2019

Shaukatali Abdulsalem Shaikh ... **Applicant**

V/s.

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

.....

Mr.Milind Dhande, Advocate for the Applicant.

Mr.Vinod Chate, APP for the Respondent/State.

....

CORAM : A.M.BADAR J.

DATED : 28th FEBRUARY 2019.

P.C. :

1 This is an application for suspension of sentence and releasing the applicant/accused on bail during pendency of the appeal filed by him. The applicant/accused is convicted for the offences punishable under Sections 392 and 397 of the Indian Penal Code. On each count, he is sentenced to suffer rigorous imprisonment for seven years apart from imposition of fine and default sentence.

2 Heard the learned Advocate appearing for the applicant/accused at great length of time. He took me through

the entire evidence adduced by the prosecution and argued that evidence adduced by the prosecution is discrepant and scanty and not that of standard required for basing conviction in the criminal trial. The learned Advocate argued that inadmissible documentary evidence was accepted to base conviction. True copy of panchanama was filed. The medical evidence is not in tune with the history given by the victim of the crime in question.

3 The learned Additional Public Prosecutor opposed the application.

4 I have considered the submissions so advanced and perused the material placed on record. P.W.No.1 Rakesh is victim of the crime in question. He deposed in tune with the prosecution case and stated that in midnight of night intervening 13th and 14th September 2014, he took a lift for reaching to his house in a car driven by the applicant/accused. Absconding co-accused was the co-passenger of that car. P.W.No.1 Rakesh, who is the First Informant has eloquently stated role of the applicant/accused in the robbery. As per his version though he requested the applicant/accused, who was driving the car, to drop him at Cadbury junction, he took the car up to Nitin Company. Thereafter, he requested the applicant/accused to stop the car, but he did not stop the car and then when the co-passenger had finished the job of looting him he was pushed down from the car

and that then the applicant/accused drove that car towards Kasarvadavali. Hence, it cannot be said, at this stage, that no overt role was attributed to the applicant/accused.

5 Evidence of PW..No.1 Rakesh is virtually gone unchallenged in the cross-examination. The incident in question is not disputed in cross-examination so also identity of the applicant is not challenged in the cross-examination.

6 Considering the nature of crime and unimpeachable evidence adduced by P.W.No.1 Rakesh, no case for grant of bail is made out. The application is, therefore, rejected.

(A.MBADAR J.)