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

CRIMINAL BAIL APPLICATION NO.2582 OF 2018

Ashokkumar Brijeshkumar
alias Girjeshkumar Gupta

...Applicant

Versus

The State of Maharashtra

...Respondent

Mr.S.R.Gupta, for the Applicant.

Mr.S.R.Shinde, A.P.P for the Respondent - State.

CORAM : REVATI MOHITE DERE, J.

DATE : 17th JUNE, 2019

P.C. :

1. Heard learned counsel for the parties.
2. By this application, the Applicant seeks his enlargement on bail in connection with C.R.No. 365 of 2017 registered with the Shivaji Nagar Police Station, Mumbai, for the alleged offences punishable under Sections 302, 392, 449, 176, 411 r/w 34 of the Indian Penal Code.
3. Learned Counsel for the Applicant submitted that the Applicant has been falsely implicated in the said case; that similarly

placed co-accused – Rahul Singh, has been enlarged on bail by this Court; that although the applicant was arrested on 25th September, 2017, the recovery of a weapon and slipper at his instance is shown on 24th September, 2017; and that the statements of witnesses with respect to last seen have been recorded belatedly.

4. Learned APP opposed the application.

5. Perused the papers. The prosecution case rests on circumstantial evidence. According to the prosecution, the applicant alongwith two other co-accused committed criminal trespass in the Ration Shop of the First Informant – Sudarshan Gupta when his wife – Bhanumati (deceased) was alone at home. According to the First Informant (husband of deceased), the accused murdered his wife - Bhanumati and robbed valuable articles i.e. ornaments and cash worth Rs.4,04,000/- from the said shop. During the course of investigation, the applicant was arrested on 25th September, 2017. A perusal of the statement of the First Informant and his son – Deepak Gupta shows that the applicant had motive to commit the aforesaid offences. A perusal of the statements of the witnesses show that

the applicant was working in the shop and that on a couple of occasions the applicant had committed theft of money, pursuant to which Bhanumati (deceased) had reprimanded him and finally removed him from work. According to the witnesses, the applicant was angry with Bhanumati for removing him from the work. Apart from the circumstance of motive, there is another strong circumstance, which is of last seen. The statement of Santosh Gupta, shows that he had seen the applicant alongwith other co-accused coming out of the shop on 23rd September, 2017, approximately at the time when the alleged incident took place. As far as parity is concerned, there is no parity with co-accused – Rahul Singh, who has been enlarged on bail by this Court.

6. Considering the aforesaid evidence i.e. motive and last seen, as against the applicant, this is not a fit case to enlarge the applicant on bail. However, the trial of the applicant is expedited.

7. Accordingly, the application for bail is rejected and disposed of as such.

8. It is made clear that the observations made herein are *prima facie* for deciding the aforesaid application, and the learned Judge shall decide the case on its own merits, in accordance with law, uninfluenced by the observations made in this order.

REVATI MOHITE DERE, J.