

IN THE HIGH COURT OF JUDICATURE AT BOMBAY**CRIMINAL APPELLATE JURISDICTION****BAIL APPLICATION NO. 1396 OF 2021**

Ketan Sandanad Tarmale

.....Applicant.

Vs.

The State Of Maharashtra

.....Respondent

Mr. S.L. Suryawanshi for the Applicant.

Smt. Veera Shinde APP for the Respondent-State.

CORAM : A. S. GADKARI, J.**DATE : 27th OCTOBER, 2021.****P.C.:-**

This is a successive Application for Bail. The earlier Application bearing No.1131 of 2018 preferred by the Applicant was rejected by this Court by its Order dated 28th June, 2018.

2 Heard Mr. Suryawanshi, learned Advocate for the Applicant and Smt. Shinde, learned APP for the Respondent State. Perused record.

3 Learned Advocate for the Applicant submitted that, in the present crime, the Applicant has been arrested on 5th August, 2017 and since then he is behind bars. He further submitted that, co-accused namely Shri. Uday B. Thakare has been released on bail by this Court by its Order dated 13th June, 2018 and therefore, the Applicant may also be released on bail. He submitted that, otherwise also in the interest of justice, release of Applicant from Jail is necessary and therefore, the present Application may

be allowed.

4 Record indicates that, the Applicant is an accused in a crime with allegation that, he along with other accused persons committed dacoity on a Highway and committed murder of Mr.Pritam Marke. During the course of investigation a mobile phone of Samsung Company belonging to Pritam Marke is recovered from him under Section 27 of the Indian Evidence Act. The said mobile phone has been duly identified by the first informant, which was in use of the deceased Pritam Marke in due course of his business. That, after commission of the present crime, the Applicant has used the said handset by inserting his sim-card.

5 In this background, the principle of parity cannot be made applicable to the Applicant with co-accused Shri. Uday Thakare who has been released on bail by this Court.

In the case of Shri. Uday Thakare, as per the record, the first informant did not identify him in the test identification parade. Though it is alleged against Shri. Uday Thakare that, cash of Rs.5,000/- was recovered at his instance by effecting punchanama under Section 27 of the Indian Evidence Act, the said currency notes did not have specific marking to indicate that, the same were belonging to the first informant. That was the precise reason for grant of bail to co-accused Shri. Uday Thakare.

6 As noted earlier, there is more than sufficient material available against the Applicant to show his clear complicity in the present crime. The

offence alleged against the Applicant is of robbery with murder on a Highway in broad daylight. Except the passage of time, there is no change in circumstance from 28th June, 2018 i.e. the date of rejection of earlier Application till today.

I find no merits in the present Application, Application is accordingly rejected.

7 Record indicates that, the Applicant is behind bar since 5th August, 2017 i.e. about more than 4 years as of today.

In view thereof, the learned District Judge-1 and Additional Sessions Judge, Kalyan, District Thane seized of Sessions Case No.351 of 2017 is directed to expedite the hearing of the said case and to make an endeavour to conclude the same within a period of one year from the date of receipt of the present Order.

8 Learned APP is directed to produce the present Order before the learned District Judge-1 and Additional Sessions Judge, Kalyan, District Thane through the concern Investigating Officer or the in-charge Officer of Murbad Police Station, as soon as it is uploaded on the official website of the Bombay High Court, Mumbai.

(A.S. GADKARI, J.)