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

BAIL APPLICATION NO. 1775 OF 2016

Jayesh Mansukhlal Parekh.

... Applicant.

V/s.

State of Maharashtra (at the instance
of Matunga Police Station, Mumbai).

... Respondent.

Mr. Mihir Gheewala a/w. Santosh Pawar for the Applicant.

Mr. Yusuf Iqbal Yusuf, Mr. Neville Majra, Ms. Shaista Pathan i/b. YA
Legal for the Orig. Complainant.

Mrs. Veera Shinde, APP for the State.

CORAM : A.S. GADKARI, J.

DATE : 24 April, 2017.

P.C. :-

1. This is an application under Section 439 of the Code of Criminal Procedure, seeking bail in CR No. 100/16 dated 31st March 2016 registered with Matunga Police Station, Mumbai under Sections 420 and 406 of the Indian Penal Code.

2. The record discloses that in pursuance of the order dated 20 January 2017 the respondent No.2 – original complainant has been duly served. The applicant has also filed a copy of affidavit of service in that behalf.

3. It is the allegation against the applicant that he had promised the complainant to give his property for development and accordingly, a memorandum of understanding was executed. That the applicant took Rs.51,00,000/- from the first informant for the same and did not honour the promise. The applicant neither gave his property to the first informant for development nor refunded the amount of Rs.51,00,000/-. In the premise the first information report was registered.

4. In order dated 20th January 2017 this Court has observed that the applicant was ready and willing to deposit the amount of Rs.51,00,000/- as was directed by an order dated 23rd November 2016 in Notice of Motion No. 51 of 2015 in Insolvency Petition No. 159 of 2004 with the Prothonotary of this Court within a period of four weeks from 23rd November 2016. The learned Counsel for the applicant submitted that as a matter of fact, the applicant has deposited an amount of Rs.51,00,000/- in the office of the Prothonotary and Senior Master of this Court.

5. In view thereof, the interest of the first informant has been duly protected. The applicant is arrested on 1 April 2016 and since then he is in jail. The investigation of the present crime is completed and the charge-sheet has been submitted. No fruitful purpose will be served by keeping the applicant in further incarceration.

6. In view of the above, the applicant has made out the case for release on bail.

Hence, the following order :

- (i) The applicant be released on bail in CR No. 100/16 registered with Matunga 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 Matunga Police Station on every First Monday of the month between 11.00 a.m. to 2.00 p.m. till the conclusion of trial.
- (iii) Any two consecutive defaults will attract the provisions of cancellation of bail.
- (iv) The applicant shall not tamper with the evidence and/or influence the prosecution witnesses.

5. The application is allowed in the aforesaid terms.

(A.S. Gadkari, J.)