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

CRIMINAL APPLICATION NO. 34 OF 2017

ICICI Bank Limited

.....Applicant

V/s.

The State of Maharashtra and another

.....Respondents

Mr. Faisal Sayyed i/b M/s. Manilala Kher Ambalal & Co. for the applicant.

Mrs. S. S. Kaushik APP for the State.

CORAM : NITIN W. SAMBRE, J.

DATE : MARCH 20, 2018.

P.C.

Heard. An amount of Rs. 36,00,000/- lying in the account of the accused operated with Allahabad Bank came to be seized. The said amount is claimed to have been part of the amount of loan obtained by the accused from the petitioner-bank. The release of the said amount is prayed before the learned Magistrate. His prayer came to be dismissed and confirmed in revision. As such, this petition.

2 The learned counsel for the petitioner would urge that affidavit at Exhibit 'O' speaks of Allahabad Bank has no lien or interest in the said account. Affidavit-in-reply came to be filed before the learned Metropolitan Magistrate in response to application for release of the said amount in favour of the petitioner/bank by an authorized signatory on behalf of Allahabad Bank.

3 It is not in dispute that the amount of Rs. 36,00,000/- of which release is sought by the petitioner is part and parcel of the amount released by the petitioner towards loan to the accused Kailas Gurav, who is absconding.

4 Apart from above, petitioner has assured this Court that petitioner shall furnish an undertaking to re-deposit the said amount along with interest, if so directed by the Court of Magistrate at appropriate stage.

5 That being so, the petitioner who is a financial institution, in my opinion, is entitled for release of the amount of Rs. 36,00,000/-,

which is seized in crime no. 85 of 2011, registered with respondent no. 2, on following conditions.

(i) Petitioner shall file an undertaking of the competent officer who is authorized to do so that in case, if directed by the Metropolitan Magistrate, amount of Rs. 36,00,000/- lying with Allahabad Bank in the crime in question, shall be re-deposited with interest at the rate of 9% per annum.

(ii) Amount of Rs. 36,00,000/- be released along with interest accrued thereon till the date of withdrawal.

(iii) Furnishing of the undertaking will be a condition precedent before the releasing of amount in favour of the applicant.

6 With above observations, application is allowed.

[NITIN W. SAMBRE, J.]