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

CRIMINAL BAIL APPLICATION NO.1066 OF 2017

Sachin Pandharinath Kanse

...Applicant

Versus

The State of Maharashtra

...Respondent

Mr.Tapan Thatte a/w Mr.Sagar S. Tambe, for the Applicant.

Ms.P.N.Dabholkar, A.P.P for the Respondent-State.

ACP – Ravindra Khanderao Doiphode, Vakola Division, Mumbai.

CORAM : REVATI MOHITE DERE, J.

DATE : 2nd APRIL, 2018

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.337 of 2015 registered with the Vile Parle Police Station, Mumbai, for the alleged offences punishable under Sections 395, 363, 341, 170, 201, 412, 468 of the Indian Penal Code, under Section 3 r/w 25 of the Arms Act and under Sections 3(1)(ii), 3(2),

3(4) of the Maharashtra Control of Organized Crime Act.

3. Learned Counsel for the applicant submitted that the applicant has been falsely implicated in the aforesaid case. He submitted that although there is recovery of certain gold pieces, at the instance of the applicant, none of the gold articles/pieces have been identified, by any of the witnesses. He submitted that there is serious discrepancy in the timings relating to the incident. According to the learned counsel, even the forged number plate (car), recovered at the instance of the applicant suffers from serious infirmities. He submitted that although the applicant has been identified, no role has been assigned to the applicant by the complainant.

4. Learned APP opposed the application. She has filed an affidavit of Ravindra Khanderao Doiphode, Assistant Commissioner of Police, Vakola Division, Mumbai. According to her, there is sufficient *prima facie* material to show the complicity of the applicant in the alleged offences.

5. Perused the charge-sheet. The alleged incident has taken place

on 21st October, 2015 at about 10.00 a.m. According to the complainant-Mahendrakumar Pralhad Saini, he and his associate had gone to Mumbai Domestic Airport, at Jet Airways Cargo, to pick up a parcel/consignment, which had arrived. He had stated that he and his associate picked up two boxes containing gold and diamond jewellery, worth Rs.2,48,30,000/-. According to the complainant, his associate stayed back at the Jet Cargo, to complete the documentation. He has stated that at about 10.30 a.m., when he was proceeding with the said two boxes on his Activa Scooter for his office, situated at Vile Parle, he was intercepted by 5 unknown persons, who represented themselves as police from the Crime Branch, Dahisar. He has stated that one of the accused took away his Activa Scooter alongwith the two boxes containing the jewellery and the other accused forced the complainant to sit in a Swift Dezire Car, which was taken towards the highway. The complainant was threatened at gun-point and was dropped near the Jogeshwari Fly Over, pursuant to which, he lodged the aforesaid complaint. During investigation, the police seized mobile phones and also recovered the Swift Dezire Car. The applicant was arrested on 24th October, 2015 and 43 gold ornaments were recovered, at the instance of the applicant (valuation of which was around Rs.53 lakhs). On 29th October,

2015, a forged number plate (car) used in the commission of the offence was recovered at the instance of the applicant. Although, learned counsel for the applicant submitted that the police were aware of the said spot on 25th October, 2015, itself, nothing was recovered prior to 29th October, 2015. The Swift Dezire Car, which was used in the commission of the offence was registered in the name of the applicant. It appears that during investigation, CCTV footage of the spot of the incident was obtained and the CCTV footage revealed that on the date and time of the alleged incident, a white Swift Dezire Car of the applicant was seen passing from the said spot. It also appears that the applicant has been identified in the identification parade, which was held before the Nayab Tahshildar, Andheri, Mumbai, as being one amongst the 5 persons, who intercepted the complainant. Although, learned counsel for the applicant submitted that there are infirmities in the identification parade, the same is a matter, which will be considered by the trial Court during trial.

6. Considering the *prima facie* material, as against the applicant, it cannot be said that the applicant is not guilty of the offences, with which he is charged.

7. Considering the aforesaid, this is not a fit case to enlarge the applicant on bail.

8. Hence, the application for bail is rejected and disposed of as such.

9. 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.)