

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

CRIMINAL BAIL APPLICATION NO. 1566 OF 2018

Hasanali @ Sultan Jaidali Kasab	... Applicant
Vs.	
State of Maharashtra	... Respondent

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Mr. Karl Rustomkhan I/by Mr. Rahul Arote for the applicant.
Mr. Arfan Sait, APP for the Respondent-State.
Mr. Chetan K. Patil, PSI, Bhiwandi Taluka is present.

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**CORAM : PRAKASH D. NAIK, J.
DATE : 29th OCTOBER, 2018.**

P.C.

1. This is an application for bail in connection with CR No. I-35 of 2018 registered with Bhiwandi Taluka Police Station for the offence punishable under Section 420 read with 34 of Indian Penal Code.
2. The case of the prosecution is that one Jignesh Soni and the complainant were Facebook friends since October, 2017 and used to chat with each other on whatsapp. Jignesh Soni had introduced himself as a businessman indulging in buying and selling gold ornaments and diamonds. The complainant was jobless, therefore he asked Jignesh Soni to find a job for him in his

business. He was given contact number of Dipak Jain by Jignesh Soni in January, 2018. Deepak Jain contacted the complainant and told him that he is having some gold articles to be sold through him and that he would get 10% commission of the sale amount. On 5th February, 2018, Deepak Jain contacted the complainant and told him that one person namely Sultan would bring the gold ornaments. Therefore, the complainant alongwith his friend Afzal was waiting for Deepak Jain and Sultan at Kalyan Bye-pass. At that time Sultan and Faizan arrived and entered in a Innova car in which complainant was waiting. Sultan introduced Faizan to him as the person sent by Deepak Jain. Complainant handed over Rs.30 Lakhs to Sultan (applicant). After receiving the said amount, Sultan stepped down from Innova car on the pretext that he would count the amount and would come back. Gold articles were kept in the custody of Faizan who remained with the complainant. The accused was allowed to leave the car for the purpose of counting the amount. After some time, some unknown persons came by car and threatened Faizan and took him away alongwith gold ornaments. The complainant thereafter tried to contact Jignesh Soni and Dipak Jain. The complainant realized that he has been cheated for an amount of Rs.30 Lakhs. Applicant

did not return with cash. Therefore, he lodged FIR 7th February, 2018. The applicant was arrested on 15th February, 2018. On completing investigation, chargesheet has been filed.

3. Learned counsel for the applicant submits that he has been falsely implicated in this case. There is no evidence to connect the applicant with the crime. CCTV footage which is relied upon by the prosecution merely refers to the presence of the applicant. It is further submitted that he is in custody from the date of arrest. The co-accused who were involved in the said crime are granted bail by the Sessions Court. There is no admissible evidence against the applicant. There was no identification parade. He submitted that nothing has been seized from the applicant. Gold ornaments were in possession of other accused. Investigation is completed and the chargesheet has been filed.

4. Learned APP submitted that there is sufficient evidence to connect the applicant in the said crime, it was pre-planned offence. The complainant was induced to part with the amount of Rs.30 Lakhs under the pretext that gold ornaments would be handed over to him. It is further submitted that the applicant/accused and co-accused Faizan were present at the scene of offence. Complainant handed over the cash amount to the

applicant/accused. However, as pre-planned other accused had come to the spot and shown to have abducted Faizan and took away gold ornaments. Applicant/accused also did not return to the spot with the car. The involvement of the applicant is also evident from the CCTV footage. It is therefore submitted that application be rejected.

5. I have perused the documents on record. Applicant has played a major role in the alleged crime. He is the person to whom the complainant had handed over an amount of Rs.30 Lakh under the pretext to count the money but he disappeared with the cash. The other accused were handed over gold ornaments and he was with the complainant. However as pre-planned by the accused, other accused had reached the spot and Faizan alongwith gold ornaments was taken away by them. Accused tried to show that it was case of abduction and robbery. The attempt was made to show that it is a case of robbery, however, in pursuant to that applicant did not return with the cash amount. There is evidence of CCTV footage which indicate that applicant was present at the scene of offence. CDR record also shows the presence of the applicant in the subject area. Presence of co-accused Faizan is also reflected in the CCTV footage. The applicant has been identified

in the CCTV footage as the person who was present at the scene of offence and committed alleged offence. The applicant is a person who had disappeared with the huge cash of Rs.30 Lakhs and all the accused have conspired and cheated complainant. Applicant has played a vital role in the said crime. In the circumstances, no case for grant of bail is made out. Bail Application stands rejected.

(PRAKASH D. NAIK, J.)

Sachidanand
Kuttan Nair

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signed by
Sachidanand
Kuttan Nair
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