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

CRIMINAL BAIL APPLICATION NO.2589 OF 2017

Mustakeen @Mustakin Fajuluddin Shaikh	...Applicant
Versus	
The State of Maharashtra	...Respondent

Mr.Shriganesh Sawalkar, for the Applicant.

Mr.S.S.Hulke, A.P.P for the Respondent-State.

API – S.R.Gare, Gaodevi Police Station, Mumbai.

CORAM : REVATI MOHITE DERE, J.

DATE : 27th 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.96 of 2017 registered with the Gaodevi Police Station, Mumbai, for the alleged offences punishable under Sections 170, 420, 120B r/w 34 of the Indian Penal Code.
3. Perused the papers. According to the Complainant – Smt.

Badamiben Gupchand Jain, the incident took place on 06.07.2017 at about 8.30 a. m.. She has stated that when she was going to the Jain Mandir for darshan, in front of Matrumandir building, one person called out to her and disclosed that he was a police officer and asked the Complainant not to keep the chain on her neck. The Complainant was also asked to remove her bangles. It is alleged by the Complainant that the said two persons kept her chain and bangles in a handkerchief and thereafter, they told her that they had kept her handkerchief in her bag and thereafter, they left. She has stated that when she checked the bag, she found that the chain and bangles were missing and that she was cheated. Pursuant thereto, a complaint was lodged as against unknown persons. During investigation, the Applicant was arrested. Admittedly, the Applicant is not one of the persons who was present at the spot.

4. Learned APP, on instructions, does not dispute the fact that the applicant was driving the car, which was hired by co-accused – Jani Jafar Husain, who has been enlarged on bail by this Court, vide order dated 12th April, 2018. A gold chain had been recovered, at the instance of the applicant. Admittedly, the applicant is not one of the persons, who

impersonated and robbed the complainant. The applicant was the driver of the vehicle, in which, co-accused had travelled. The applicant is in custody since July, 2017. Investigation is complete and charge-sheet is filed.

5. Considering the aforesaid, the application is allowed and the applicant is enlarged on bail on the following terms and conditions:-

ORDER

- i) The Applicant be enlarged on bail, on executing PR Bond in the sum of **Rs. 25,000/-** with one or two local solvent sureties in the like amount;
- ii) The Applicant shall report to the investigating officer of the concerned police station on the **first Sunday of every month** between **10:00 a. m. and 11:00 a. m.** till the conclusion of the trial;
- iii) The Applicant shall not tamper with the evidence or attempt to influence or contact the complainant, witnesses or any person concerned with the case;

- iv) The Applicant shall inform his latest place of residence and mobile contact number immediately after being released and/or change of residence or mobile details, if any, from time to time to the Court seized of the matter and to the Investigating Officer of the concerned Police Station;
- v) The Applicant to cooperate with the conduct of the trial;
- vi) The Applicant shall file an undertaking with regard to clauses (ii) to (v), in the trial Court, within two weeks of his release;
- vii) If there are two consecutive defaults in appearing before the trial Court and appearing before the investigating officer of the concerned police station, the prosecution will be at liberty to apply for cancellation of the Applicant's bail.

6. The Application is allowed and disposed of in above terms.

7. It is made clear, that the observations made herein are *prima facie* and are confined to this application and the learned Judge to decide the case on its own merits, uninfluenced by the observations made herein.

8. All concerned to act on the authenticated copy of this order.

(REVATI MOHITE DERE, J.)