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

WRIT PETITION NO.5223 OF 2017

Mukesh Narayan Gade	...Petitioner
Versus	
The State of Maharashtra	...Respondent

Mr.R.D.Salve, for the Petitioner.

Mr.H.J.Dedhia, A.P.P for the Respondent-State.

CORAM : REVATI MOHITE DERE, J.

DATE : 16th FEBRUARY, 2018

P.C. :

1. At the outset, learned counsel for the petitioner seeks leave to amend the prayer clauses in the petition. Leave granted. Amendment to be carried out forthwith.
2. Heard learned counsel for the parties.
3. By this petition, the petitioner has impugned the order dated 20th June, 2017, passed by the learned Metropolitan Magistrate, 73rd Court, Vikhroli, Mumbai, by which the petitioner's application for return of his

passport and permission to travel abroad was rejected by the learned Metropolitan Magistrate; as well as order dated 26th October, 2017, passed by the learned Special Judge, City Civil and Sessions Court, Greater Bombay, in Criminal Revision Application No.616 of 2017, by which the learned Special Judge was pleased to reject the petitioner's Revision Application filed against the order dated 20th June, 2017.

4. Learned Counsel for petitioner submits that the petitioner's wife and children are in the USA and that the petitioner intends to travel to USA for a period of 4 months. Learned Counsel to show the petitioner's bonafides has filed an affidavit of the petitioner, wherein the petitioner has stated that he will hand over all the original documents to the Pant Nagar Police Station, pertaining to the three properties standing in his and his wife's names, at Powai, Ghatkopar and Karjat, before leaving India. Learned Counsel for the petitioner states that the petitioner has not created any third party interest in the aforesaid properties, nor will he create any third party interest nor will he sell, mortgage, transfer, lien or transfer the aforesaid three properties, till he returns to India. Learned Counsel for the petitioner states that the petitioner has submitted all the original documents

pertaining to the aforesaid three properties to the concerned Police Station i.e. Pant Nagar Police Station, Mumbai.

5. Learned APP states that all the original documents with regard to the aforesaid properties have been received by the Pant Nagar Police Station and that the Investigating officer has verified the said documents.

6. Perused the papers. The petitioner is facing prosecution for the alleged offences punishable under Sections 406 and 420 of the Indian Penal Code, in connection with C.R. No. 331 of 2016, registered with the Pant Nagar Police Station, Mumbai. It is not in dispute that the petitioner's properties are valued more than Rs.3 crores and that the allegations in the complaint are for an amount of Rs.34,46,700/-.

7. Considering the affidavit filed by the petitioner and the fact that the petitioner has handed over all the original documents pertaining to the three properties owned by the petitioner and his wife, the petitioner is permitted to travel abroad for a period of 4 months. The Pant Nagar Police Station, shall handover the passport of the petitioner, to the petitioner,

forthwith.

8. In view of the aforesaid, the petition is allowed and the impugned order dated 20th June, 2017, passed by the learned Metropolitan Magistrate, 73rd Court, Vikhroli, Mumbai, as well as order dated 26th October, 2017, passed by the learned Special Judge, City Civil and Sessions Court, Greater Bombay, in Criminal Revision Application No.616 of 2017, are quashed and set aside.

9. The petitioner shall furnish his itinerary i.e. date of his departure and date of his return and details of the places/addresses, where he will be residing during the aforesaid period of 4 months alongwith the telephone numbers, to the concerned Officer of the Pant Nagar Police Station, before leaving India. The Pant Nagar Police Station to keep the said original documents handed over by the petitioner with respect to the aforesaid three properties in safe custody and shall hand over the same to the petitioner, on his return to India. The petitioner to handover his passport to the officer of the Pant Nagar Police Station, Mumbai, on his return to India. All the original documents pertaining to the three properties

owned by the petitioner and his wife, be returned back to the petitioner, on his return to India.

10. Petition is allowed and disposed of in above terms.

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

REVATI MOHITE DERE, J.