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

CRIMINAL BAIL APPLICATION NO.291 OF 2019

Rahul Ishwar Kapoor	...Applicant
Versus	
The State of Maharashtra and Anr.	...Respondents

***WITH
CRIMINAL BAIL APPLICATION NO.233 OF 2019***

Kiran Laxmandas Shah	...Applicant
Versus	
The State of Maharashtra and Anr.	...Respondents

Ms.Risha Sharma i/b FF and Associates, for the Applicant in B.A.No.291 of 2019.

Mr. S.R.Mithare, for the Applicant in B.A.No.233 of 2019.

Mr.Prashant Jadhav A.P.P for the Respondent - State.

Mr.Milan A. Heballi, i/b Mr.K.L.Jain, for the Respondent No.2 - Original Complainant.

CORAM : REVATI MOHITE DERE, J.

DATE : 3rd JUNE, 2019

P.C. :

1. Heard learned counsel for the parties.

2. By these applications, the Applicants seek their enlargement on bail in connection with C.R.No.395 of 2017 registered with the MIDC Police Station, Mumbai, for the alleged offences punishable under Sections 406, 420 r/w 34 of the Indian Penal Code.

3. Learned Counsel for the Applicants and the learned counsel for the added Respondent no.2 (original complainant) have tendered the Consent Terms dated 2nd May, 2019, duly signed by the parties. The same are taken on record and marked 'X' for identification. It appears from the Consent Terms that the parties have amicably settled their dispute and that the Applicants have handed over a flat ad-measuring 629 sq.ft on the 15th Floor of 'Meera Empire' Building, situated at Village Pahadi, Off. M.G. Road, Teen Dongri, Goregaon (West), Mumbai – 400 104, to the Respondent No.2, as against part claim of a loan of Rs.1 crore taken from the complainant i.e. Respondent No.2. In addition to the said flat, the Applicants have also handed over a Fortuner Car which is presently in the custody of the police. The Applicants have also agreed to get the Fortuner Car released from the Court along with all necessary original documents, within one month of their release from jail. In addition to the aforesaid, to

make up the amount of Rs.1 crore, the Applicants have also given two post-dated cheques for an amount of Rs.10 lakhs and Rs.4 lakhs respectively. The Applicants in the said Consent Terms have also agreed to honour the said cheques on or before 15th June, 2019. Pursuant to the aforesaid, the added Respondent No.2 i.e. original complainant has given his No Objection for grant of bail to the Applicants. Learned Counsel for the Applicants submits that in the event the Applicants fail to comply with the undertaking, the Applicants bail be cancelled automatically. He also submits that the Applicants themselves will surrender, in the event they fail to comply with the Consent Terms. Learned Counsel for the Respondent No.2 (original complainant) states that in the event the Consent Terms are complied with, the Respondent No.2 i.e. the original complainant will co-operate with the Applicants in filing of an appropriate Petition for quashing of the said case before the Division Bench.

4. It is not in dispute that the aforesaid Flat has been given by the Applicants to the original complainant and that there is a registered Agreement which has been entered into with respect to the said Flat. As far as the Fortuner Car and two postdated cheques are concerned, the

Applicants have undertaken to hand over the Fortuner Car along with all necessary original documents, within one month of their release from jail to the Respondent No.2, as well as, have undertaken to honour the cheques on or before 15th June, 2019.

5. Considering the Consent Terms entered into between the parties, without going into the merits, the applications are allowed and the applicants are enlarged on bail on the following terms and conditions:-

ORDER

- i) The Applicants be enlarged on bail on furnishing P.R. Bond in the sum of Rs.50,000/- each, with one or more sureties in the like amount;
- ii) The Applicants shall abide by the Consent Terms entered into between them and the Respondent No.2 (original complainant);
- iii) In the event, the Applicants fail to comply with the undertaking tendered today, the Applicants to surrender before the appropriate Court. It is also open for the Respondent No. 2 to file an application seeking cancellation of their bail.

6. The Applications are allowed and disposed of in above terms.
7. All concerned to act on the authenticated copy of this order.

REVATI MOHITE DERE, J.