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

CRIMINAL BAIL APPLICATION NO.749 OF 2019

Rajendra Jagannath Wagh

...Applicant

Versus

State of Maharashtra

...Respondent

Ms.Roshni Singh, for the Applicant.

Mr.S.V.Gavand, A.P.P for the Respondent - State.

CORAM : REVATI MOHITE DERE, J.

DATE : 9th AUGUST, 2019

P.C. :

1. The hearing of the aforesaid application was preponed at the request of the learned counsel for the applicant, as the applicant's wife is in hospital.

2. Heard learned counsel for the parties.

3. By this Application, the Applicant seeks his enlargement on bail in connection with C. R. No. 136 of 2017 registered with the Sanpada Police Station, Navi Mumbai, for the alleged offences punishable under Sections 380, 401, 411, 414, 454, 457, 465, 467, 468, 471, 473, 120B, 308 r/w 34 of the Indian Penal Code and under Sections 3(1)(2), 3(2), 3(4) of the

Maharashtra Control of Organized Crime Act (for short 'M. C. O. C. Act').

4. It appears that the applicant is a jeweller to whom stolen jewellery worth Rs.30 lakhs was sold by Mohiddin Shaikh (Original Accused No.5) and Shravan Hegde. It is alleged that the jewellery sold to the applicant was melted by him. There is recovery of melted gold from the applicant. This is the only allegation as against the applicant i.e. he purchased the stolen jewellery from the said accused.

5. Learned APP does not dispute that this is the only allegation as against the applicant. Learned APP has filed an affidavit of Amol B. Zende, Assistant Commissioner of Police, Turbhe Division, Navi Mumbai.

6. Perused the papers. According to the Complainant – Smt. Seema Kumari, Bank Manager of Bank of Baroda, after completion of the work of the Bank on Friday i. e. 10.11.2017, she closed the Bank at 7.30 p. m. and after closing the main gate, she went home. Saturday and Sunday were Bank holidays. On Monday, i. e. 13.11.2017, the Complainant instructed her colleague Venkat Nanaji Vartam that she would be reaching

the Bank late and gave the keys of the Bank to Rohit. Accordingly, the Bank was opened at 9.45 a. m. On entering the strong room of the Bank, the big locker containing cash and lockers of Bank customers were found to be empty. It appears that when the Bank officer visited the strong room, they found that one tunnel was dug and that jewellery and cash was stolen from the said strong room. During the course of investigation, all the accused were arrested including the Applicant and later, M. C. O. C. Act was applied. As far as the Applicant is concerned, there is recovery of gold under Section 27 of the Evidence Act given by co-accused. *Prima facie*, it is doubtful whether the Applicant would be guilty of the offence under the M. C. O. C. Act. The applicant has no antecedents. Investigation is complete and charge-sheet is filed.

7. Considering the material on record and the nature of allegations *qua* the applicant, the application is allowed and the applicant is enlarged on bail on the following terms and conditions:-

ORDER

- i) The Applicant be released on cash bail in the sum of Rs.25,000/-, for a period of six weeks;

- ii) The Applicant shall within the said period of six weeks, furnish P.R. Bond in the sum of Rs.25,000/- with one or more local sureties in the like amount;
- iii) The Applicant shall attend the concerned Police Station, on the first Saturday of every month, between 10:00 a.m. to 11:00 a.m., till the conclusion of the trial;
- 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 trial Court as well as to the concerned Police Station, in writing;
- v) The Applicant shall not tamper with the evidence or attempt to influence/contact the complainant, witnesses or any person concerned with the case;
- vi) The Applicant shall co-operate in the conduct of the trial and shall attend the trial Court on every date of hearing, unless exempted by the trial

Court;

vii) An undertaking to the aforesaid clauses (ii) to (vi), shall be filed by the Applicant, in the Registry of the trial Court, within two weeks of his release;

viii) If there are 2 consecutive defaults either in attending the Police Station or in appearing before the trial Court or breach of any of the conditions as stated above, the prosecution will be at liberty to apply for cancellation of Applicant's bail.

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

9. It is made clear, that the observations made herein are *prima facie*, and the trial Court shall decide the case on its own merits, in accordance with law, uninfluenced by the observations made in this order.

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

REVATI MOHITE DERE, J.