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

CRIMINAL BAIL APPLICATION NO.1710 OF 2018

Jahangir Abdul Malik Shaikh	... Applicant
Versus	
The State of Maharashtra	...Respondent

Mr.Vinod Kashid, for the Applicant.

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

Investigating Officer/ATS, P.I. B.D.Kadam.

CORAM : REVATI MOHITE DERE, J.

***DATE : 9th JANUARY, 2019
(IN CHAMBERS)***

P.C. :

1. Heard learned counsel for the parties.
2. This is the second bail application preferred by the applicant. Since the first bail application of the applicant was rejected by this Court (Coram: Revati Mohite Dere, J.) vide order dated 22nd March, 2018, passed in Criminal Bail Application No.2838 of 2017, the present Application is placed before this Court.

3. Learned Counsel for the Applicant submits that there is no progress in the trial since 22nd March, 2018 and as such the Applicant is languishing in jail. He submitted that the number of the motorcycle which is allegedly recovered at the instance of the Applicant is different from the number mentioned in the charge-sheet. Learned Counsel for the Applicant further submits that it was wrongly mentioned by the then learned APP appearing for the State that the applicant has one antecedent, though the Applicant has been acquitted in the said case.

4. Learned APP opposed the bail application. He submitted that there is no change of circumstance warranting filing of the second bail application and that there is no change of circumstance since the last order dated 22nd March, 2018.

5. Perused the papers. The Applicant along with other co-accused was arrested in connection with C.R.No.264 of 2016 registered with the Pydhonie Police Station, Mumbai, (subsequently transferred to DCB, CID, Unit-II and registered as C.R.No.64 of 2016), for the alleged offences punishable under Sections 395, 363 r/w 201 of the Indian Penal Code.

The first bail application was rejected vide order dated 22nd March, 2018, on merits. The said order is on page 296 of the Application. The incident in question is of 17th September, 2016, when the complainant, a jeweller was on his way to Varanasi to sell jewellery. The complainant alongwith his nephew-Ankit and his employee-Akash, left home for CST Railway Station to catch the train to Varanasi on 17th September, 2016. The complainant was carrying with him gold ornaments weighing 6569.050 grams. According to the complainant, when he and his nephew and his employee were travelling in a taxi, the taxi driver stopped the car and two unknown persons came on a motorcycle and two others who were standing on the footpath held the complainant's collar. It is alleged that one of the person sat in the taxi alongwith the taxi driver and drove the taxi. The complainant is stated to have informed the control room and given the taxi registration number and description of the persons, pursuant to which, the accused were arrested and after investigation, charge-sheet was filed. It is not in dispute that the Applicant has been identified in the identification parade by the 3 witnesses i.e. complainant, his nephew-Ankit and employee-Akash. There is recovery of ornaments i.e. 26 earrings and 6 rings, at the instance of the applicant. Whether or not the recovery of the

motorcycle at the instance of the Applicant, is the one mentioned in the charge-sheet, is a matter, which will be considered by the trial Court.

6. Considering the *prima facie* material as against the Applicant and considering the fact that there is no change of circumstance since 22nd March, 2018, the application for bail is rejected and disposed of as such. However, the trial of the applicant is expedited. The learned Judge to conclude the trial as expeditiously as possible and preferably within 12 months from the date of receipt of this order.

7. It is made clear that the observations made herein are *prima facie* for deciding the aforesaid application, and the learned Judge shall decide the case on its own merits, in accordance with law, uninfluenced by the observations made in this order.

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

REVATI MOHITE DERE, J.