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

ANTICIPATORY BAIL APPLICATION NO.1561 OF 2018

Manish s/o Sushilkumar Modi & Ors.

..Applicants

Vs

The State of Maharashtra & Anr.

..Respondents

Mr. A.M. Sarogi for the Applicant.

Mr. S.S. Hulke, APP for State.

Ms. T.F. Irani, for the Respondent No.2.

CORAM : A.S.GADKARI, J.

DATE : 5th April 2019.

P.C.:

1] Heard the learned counsel for the applicants, the learned counsel for the respondent No.2 and the learned APP. Perused the record.

2] By an Order dated 3rd August 2018, the applicants were granted interim relief.

3] During the course of arguments, on earlier occasion, the learned counsel for the applicants had submitted that, the applicants are in possession of 14 articles amounting approximately Rs.83,48,000/- out of the 47 articles mentioned in the first information report. That the total value of the ornaments as mentioned in the first information report is about Rs.1,77,23,000/- (Rupees One Crore Seventy Seven Lakhs Twenty Three

Thousand Only). He submitted that, after deducting the said amount of Rs.83,48,000/-, there is a balance of about Rs.90.00 lakhs (Rupees Ninety Lakhs Only). He submitted that, without prejudice to their rights and contentions, the applicants will deposit Rs.90.00 lakhs (Rupees Ninety Lakhs Only) in the Registry of this Court within a period of two weeks from today. He tendered across the bar an affidavit dated 3.4.2019 affirmed by the applicants to that effect. The said affidavit is taken on record and marked "X" for identification.

4] In the said affidavit, apart from giving an undertaking that, the applicants will deposit the said amount of Rs.90.00 lakhs in the Registry of this Court, a further undertaking is given that, without prejudice to their rights and contentions in the present proceedings before this Court, the applicant No.1 will continue to pay Rs.50,000/- towards the maintenance of his child and for any reason if the child requires hospitalization and other medical expenses, the applicant No.1 will reimburse the same, subject to production of bills from the first informant. The statements made in the said affidavit are accepted as undertakings given to this by the applicant No.1 to this Court.

5] The learned Counsel for the applicants on instructions

submitted that, the applicants are ready and willing to deposit the said 14 articles which are in their possession with the Investigating Officer. The list of the said 14 articles is annexed to the aforesaid affidavit. He on instructions submitted that, the said articles will be deposited with the Investigating Officer on 16th April 2019. The said statement is accepted. The Investigating Officer at the time of seizure of the said articles shall make a detailed panchanama to that effect.

6] In view of the aforestated affidavit and the statement made by the learned counsel for the applicants, this Court is of the opinion that the custodial interrogation of the applicants for further investigation of the present crime is not necessary.

Interim relief granted by Order dated 3rd August 2018 is hereby confirmed.

7] At this stage, the learned counsel for the applicants submitted that, the applicants are in Mumbai City for attending proceedings before this Court and they desire to meet the son of the applicant No.1 namely Master Shivam aged about 3 years. The learned counsel for the first informant submitted that, the applicants are welcome to the house of the first informant to meet Master Shivam and the first informant has no

objection for the same. However, the first informant apprehends that, there may be some problem which may be created at the house of the first informant. The learned counsel for the applicants submitted that, the applicants will visit the house of the first informant to meet Master Shivam on Tuesday, 9th April 2019 between 3 to 5 p.m. If any unavoidable circumstance arises, such as delay due to traffic congestion or in train travel the said period will be further adjusted by two hours i.e. upto 9.00 p.m on the same date.

8] After taking into consideration the apprehension expressed by the first informant, the Senior Inspector of Police, Oshiwara Police Station is hereby directed to depute one Woman Constable and one Male Constable in civil dress to accompany the applicants at the time of their visit to Master Shivam at the house of the first informant on 9th April 2019 during the aforesaid time. Order of granting visit to child namely Master Shivam is passed in the interest of justice and the same shall not be construed as a precedent in any other proceedings inter-se between the parties.

9] Application is allowed in the aforesaid terms.

(A.S.GADKARI, J.)