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

CRIMINAL BAIL APPLICATION NO.2339 OF 2018

Talath Koyum Thangal @ Talath Baiual	...Applicant
Versus	
The State of Maharashtra	...Respondent

Mr.Niranjan Mundargi, i/b Mr.J.S.Hegde, for the Applicant.

Ms. Veera Shinde, A.P.P for the Respondent - State.

PSI – O.P. Visale, B.K.C. Police Station, Mumbai, is present.

CORAM : REVATI MOHITE DERE, J.

DATE : 15th OCTOBER, 2019

P.C. :

1. Heard learned counsel for the parties.
2. By this application, the Applicant seeks his enlargement on bail in connection with C.R.No.166 of 2016 registered with the B.K.C. Police Station, Mumbai, for the alleged offences punishable under Sections 395, 363, 170, 120B and 34 of the Indian Penal Code.
3. Perused the papers. According to the complainant – Kishore Raghuvanshi, a resident of Indore, he was in the business of sale and purchase of antique stones. He has stated that about a year prior to the

incident, he had got a 41 carat ruby stone with a photo of Mecca and Madina on it, which he attempted to sell through various agents. He has stated that on 13th July, 2016, co-accused – Likhith @ Nikhith Shetty contacted his cousin brother - Manoj and informed that he had found a customer for purchasing the said ruby stone. He has stated that accordingly he came to Mumbai and stayed in Hotel Galaxy, where co-accused – Likhith @ Nikhith along with with associate – Samir Khan (impersonating as Akhtar Shah) met and agreed to buy the said ruby. According to the complainant, on 19th July, 2016, Likhith @ Nikhith and Akhtar again with the intention of purchasing the said ruby, got the ruby verified from the BKC Trade Centre along with GIA certificate. He has stated that while returning back from BKC Trade Centre at about 5.30 p.m. a white Xylo Car intercepted the Innova vehicle in which he and others were travelling. The said persons claimed to be police and forcibly made him and his cousin – Manoj get down along with Likhith @ Nikhith, Akhtar and the driver from the car and sit in the Xylo Car. The said persons claiming to be police officers removed the ruby, GIA certificate, cash of Rs.11,000/- and the complainant's mobile phone. The complainant has further stated that his cousin – Manoj was made to step out of the car at Jui Nagar and was asked to get Rs.25,000/- for his (complainant) release. Thereafter. the said persons dropped the complainant at Vadkhal Naka and the car proceeded towards

Mahad. Accordingly, the aforesaid FIR was lodged by the complainant. During the course of the investigation, six persons were identified who committed the alleged offence and the ruby stone as well as the GIA certificate were recovered from one of the accused. As far as the applicant is concerned, admittedly, he was not amongst the six persons who intercepted the vehicle in which the complainant was travelling. As far as the applicant is concerned, co-accused Likhit Shetty, had disclosed his name, that he had given the ruby to the applicant who gave it to another person. The said statement is inadmissible. According to the prosecution, the other material as against the applicant is that he was seen in the CCTV footage at Maxus Mall at Mira Road. There is no time and date, when the applicant was seen along with the co-accused. Learned APP is unable to point out any other material, apart from the aforesaid, as against the applicant. Learned APP states that the applicant has 17 cases registered as against him, out of which, he has been acquitted in 12 cases. Merely because the applicant has antecedents cannot be a ground for rejecting the applicant's application for bail, having regard to the material as against the applicant in the present C.R. However, stringent conditions can be imposed on the applicant, having regard to his antecedents.

4. Having regard to role played by the applicant, the application is allowed on the following terms and conditions:-

ORDER

- i) The Applicant be enlarged on bail on furnishing P.R. Bond in the sum of Rs.50,000/- with one or more local solvent sureties in the like amount;
- ii) The Applicant shall attend the concerned Police Station, on the first Saturday of every month, between 10:00 a.m. and 11:00 a.m., till the conclusion of the trial;
- iii) 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;
- iv) The Applicant shall not tamper with the evidence or attempt to influence/contact the complainant, witnesses or any person concerned with the case;
- v) 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;

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

vii) 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.

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

6. 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.

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

REVATI MOHITE DERE, J.