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

CRIMINAL BAIL APPLICATION NO.2573 OF 2019

Salim Gaffar Shaikh	...Applicant
Versus	
The State of Maharashtra	...Respondent

Mr.R.R.Salvi, i/b Ms.Suvarna Telegote, for the Applicant.

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

API – Mukesh Dhase, now attached to Sewree Police Station, Mumbai.

The Complainant is present in Court.

CORAM : REVATI MOHITE DERE, J.

DATE : 9th 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.60 of 2019 registered with the Bhoiwada Police Station, Mumbai, for the alleged offences punishable under Sections 406, 420, 34 of the Indian Penal Code.
3. Learned Counsel for the applicant without going into the merits of the case states that the applicant is ready to pay an amount of

Rs.15,00,000/- to the complainant – Rishikesh Pradeepkumar Dikshit, towards the loan taken by the applicant from the complainant for renewal of his hotel – ‘Shantidoot’. Learned Counsel for the applicant has tendered an affidavit-cum-undertaking of the applicant. The same is taken on record and marked 'X' for identification. In the said affidavit-cum-undertaking, the applicant has stated that out of an amount of Rs.18,50,000/-, taken from the complainant, the applicant has returned Rs.3,50,000/- to the complainant. The complainant, who is present in Court accepts having received an amount of Rs.3,50,000/- from the applicant, out of Rs.18,50,000/-. The applicant has also stated that he is ready to transfer an amount of Rs.6,19,593/- which is in his account in the YES Bank, standing in the name of M/s. Kohinoor Infa Finance Lease and Company. The applicant has stated that he has no objection if the said amount is handed over to the complainant towards part repayment of Rs.15,00,000/-. He has further undertaken that after his release on bail, he would repay the complainant the entire amount of Rs.8,80,407/- i.e. the balance amount as per the schedule mentioned in para 4 i.e. Rs.3 lakhs on or before 10th November, 2019; Rs.3 lakhs on or before 10th December, 2019 and Rs.2,80,407/- on or before 10th January, 2020.

4. The complainant, who is present in Court has no objection if the applicant is granted bail, pursuant to the undertaking given by the applicant. He, however, reserves his right to file appropriate proceedings, in the event the applicant does not comply with the aforesaid affidavit-cum-undertaking.

5. Learned APP states that the police have frozen the bank account of the applicant in the YES Bank, which stands in the name of M/s. Kohinoor Infa Finance Lease and Company, in which there is an amount of Rs.6,19,593/-. Learned APP states on instructions, that if an application is filed by the applicant, the police will give their no objection for defreezing the said account, provided the applicant transfer's the said money to the complainant.

6. At this stage, learned counsel for the applicant states that the applicant will file an application seeking defreezing of his account in the YES Bank, before the appropriate Court, within one week of his release and after appropriate orders are passed by the trial Court, the applicant will forthwith transfer the amount of Rs.6,19,593/- by R.T.G.S. to the complainant's account. Statement accepted.

7. Without going into the merits of the application and in view of the affidavit-cum-undertaking filed by the applicant, the application is allowed 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 two sureties in the like amount;
- iii) The Applicant shall comply with the affidavit-cum-undertaking tendered in this Court dated 4th October, 2019 and deposit/transfer the amounts mentioned therein;
- iv) The complainant/prosecution is at liberty to file an appropriate application, in the event the applicant does not comply with the affidavit-cum-undertaking;
- v) If an application, as stated above is filed by the applicant before the appropriate Court, for defreezing of his account, the same shall be decided

by the learned Judge, as expeditiously as possible and in any event, within one week from the filing of the said application.

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

9. Stand over to 15th November, 2019 under the caption of 'Direction' for recording compliance of transfer of the amount of Rs.6,19,593/- and the first installment of Rs.3 lakhs. To be listed on the Supplementary Board.

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

REVATI MOHITE DERE, J.