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

CRIMINAL BAIL APPLICATION NO.2683 OF 2019

ArunKumar Triloknath Dubey	...Applicant
Versus	
State of Maharashtra	...Respondent

Mr. D. Brijesh, for the Applicant.

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

API – Deepak Kadam, Banking, E.O.W. Unit – I, Mumbai, is present.

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.65 of 2010 registered with the Economic Offence Wing, Unit – I, Crime Branch, Mumbai, (earlier C.R.No.373 of 2010, registered with the Goregaon Police Station), for the alleged offences punishable under Sections 255, 257, 259, 260, 465, 467, 468, 471, 419, 420, 120B of the Indian Penal Code.

3. Perused the papers. It appears that initially an offence was registered with the Goregaon Police Station and the said case was subsequently transferred to Economic Offence Wing, Unit – I, Crime Branch, Mumbai, and renumbered as C.R.No.65 of 2010, for the alleged offences stated hereinabove. Pursuant to the registration of the offence, the applicant was arrested on 26th February, 2013 and was produced before the learned Chief Metropolitan Magistrate, 47th Court, Esplanade, Mumbai. On 12th March, 2013, the learned Additional Chief Metropolitan Magistrate, 47th Court, Esplanade, Mumbai was pleased to enlarge the applicant on bail on executing P.R. and S.B. of Rs.1,00,000/- with one or two solvent local sureties in the like amount. It appears that after investigation, charge-sheet was filed in the said case on 18th May, 2013. It appears that as the applicant failed to appear before the learned Metropolitan Magistrate his bail bond was forfeited and an NBW was issued against the applicant. Pursuant to the issuance of the NBW, the applicant was arrested by the police on 28th February, 2019 and was produced before the learned Metropolitan Magistrate and is now in judicial custody. It appears that the applicant has filed an application seeking his enlargement on bail, which was rejected by the learned Magistrate. Against the said order, the applicant filed an application seeking his enlargement on bail before the Sessions Court, which application was also rejected, on the

ground that the applicant would not make himself available for trial and was likely to abscond.

4. Today the learned counsel for the applicant has tendered an affidavit-cum-undertaking of the applicant, tendering his unconditional apology for not remaining present before the trial Court. The same is taken on record. In the said affidavit-cum-undertaking, the applicant has undertaken that he will regularly attend the trial Court i.e. Court of the learned Chief Metropolitan Magistrate, Esplanade at Mumbai (Criminal Case No.4700441/PW/2013), on every date of the proceedings, except in exceptional cases, for the reasons beyond his control. He has also undertaken to engage an Advocate to represent his case in the trial Court and has undertaken not to delay the trial. He has also stated that he would be residing at Room No.305, Sai Laxmi Apartment, Sai City Complex, Hanuman Nagar, Station Road, Nalasopara (West) – 401 203, on his release and has further undertaken to inform the trial Court his new address in the event he shifts his residential place.

5. Having regard to the conduct of the applicant, *prima facie*, no infirmity can be found in the orders of the learned Magistrate and the Sessions Court, rejecting his application for bail. However, the applicant is

given an opportunity to redeem his conduct, in view of the affidavit-cum-undertaking given by him. Accordingly, the application is allowed on the following terms and conditions:-

ORDER

- i) The Applicant be released on cash bail in the sum of Rs. 1,00,000/-, 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. 1,00,000/-, with one or two local sureties in the like amount;
- iii) The Applicant shall attend the office of the Economic Offence Wing, Unit – I, Crime Branch, Mumbai, on the first Saturday of every month, between 10:00 a.m. and 11:00 a.m., till the conclusion of the trial;
- iv) The Applicant shall not leave the jurisdiction of Mumbai, Thane and Palghar, without the permission of the trial Court;
- v) 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;

vi) The Applicant before his release, shall deposit his passport, if any, with the concerned Court;

vii) The Applicant shall not tamper with the evidence or attempt to influence/contact the complainant, witnesses or any person concerned with the case;

viii) 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;

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

x) 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.

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

7. 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.

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

REVATI MOHITE DERE, J.