

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

**CRIMINAL BAIL APPLICATION NO.1456 OF 2020**

K.F. Yunus

.... Applicant

versus

State of Maharashtra

.... Respondent

**CRIMINAL BAIL APPLICATION NO.84 OF 2020**

Nasir Ahmed Kaleemi

.... Applicant

versus

State of Maharashtra

.... Respondent

.....

- Ms.Apeksha Vora, Advocate for Applicant in BA No.1456/20
- Ms.Rehana Begum, Advocate for Applicant in BA No.84/20.
- Mr.Ameet A. Palkar, APP for the State/Respondent in BA No.1456/20.
- Smt.M.R. Tidke, APP for the State/Respondent in BA No.84/20.

**CORAM : SARANG V. KOTWAL, J.**

**DATE : 17<sup>th</sup> JULY, 2021**

**(Through video conferencing)**

**P.C. :**

1. Both these applications are decided by this common order because they arise out of same investigation and same offence.

2. The Applicants are seeking their release on bail in connection with C.R.No.166/2016 registered with BKC Police Station, on 20/07/2016 under sections 392, 363, 170 r/w 34 of the Indian Penal Code. The Applicant K.F. Yunus was arrested on 10/08/2016 and Applicant Nasir Kaleemi was arrested on 27/07/2016. Since then they are in custody. Investigation is complete and the charge-sheet is filed and in fact trial has also begun. The investigation has resulted in Sessions Case No.151 of 2017 on the file of Additional Sessions Judge, Greater Bombay. In this case 18 witnesses are already examined. However, the last witness was examined on 21/01/2020. Since then there is absolutely no progress in the trial. Some of the accused are granted bail on the ground of spread of Covid-19 pandemic. The trial is not likely to recommence and conclude in near future. In this background, today I am considering this application on merits of the matter and based on the charge-sheet and other documents annexed to these applications.

3. Heard Ms.Apeksha Vora and Ms.Rehana Begum learned counsel for Applicants and Mr.Ameet A. Palkar, learned APP for the State.
4. The prosecution case is reflected in the FIR lodged by Kishor Govardhansinh Raghuvanshi on 20/07/2016. He has stated that he is a resident of Indore. He was in the business of sale and purchase of antique stones. He had a 41 carat ruby. He wanted to sell it for Rs.5 lakhs. He discussed this matter with his friend Raju Sharma from Mumbai, who in turn gave reference of one Ravindra Poojari, who was a resident of Mangalore. The informant was told by Ravindra that he was knowing one Likhith @ Nikhit. He was in a position to enter into this transaction. The informant, his cousin Manoj and Ravindra went to Mangalore. The informant was introduced to Likhith @ Nikhit. He told the informant that if he had any customers, he would intimate the informant.

5. On 13/07/2016 Likhith @ Nikhit told Manoj that he had one customer. Therefore the informant, his cousin Manoj and driver Surendra Chauhan came to Mumbai. They met Likhith @ Nikhit and one person in a hotel. The other person was introduced as Shah. All of them went to Bandra Kurla Trade Centre to verify authenticity of the ruby and to get its certificate of genuineness verified on 19/07/2016. They were returning towards their hotel. At about 07.30 p.m. their car was intercepted by a Xylo vehicle. The passengers in that car got down and told the informant and others that they were police officers and they alleged that the informant was entering into an illegal transaction. The informant, his brother and driver as well as Likhith @ Nikhit and aforementioned Shah were forcibly kept in Xylo vehicle. They told the informant that they were to be taken to Thane Crime Branch. During their travel they removed the ruby and some cash from the informant. Manoj was left near Juinagar. Chauhan was dropped between Belapur and Panvel and the informant was dropped near Vadkhal diversion. The informant realized that he was robbed of his ruby and cash.

Thereafter he lodged his FIR. It was mentioned in the FIR that the ruby was worth Rs.5 lakhs. Learned counsel for the Applicant submits that they are languishing in jail nearly for 5 years. The Applicant Yunus was supposed to be the person who was one of members in the meeting, but he has not played any major role. Learned counsel for the Applicants submitted that it is not the allegation of the prosecution that the informant was harmed. She submitted that 5 years is a too long period for such vague allegations and the trial is not likely to get over soon. Therefore their applications be considered sympathetically.

6. Learned APPs in both these application opposed the applications. They submitted that the Applicants were identified in the identification parade and there is recovery of ruby from the Applicant Yunus. They submitted that the Applicants are not from Mumbai and therefore it would be difficult to secure their presence. They submitted that the offense is serious and the informant was abducted for some time to obtain money from them. It was a clear case of robbery. It was executed by preplanning and therefore leniency should not be shown.

7. I have considered these submissions and with assistance of all the learned counsel and learned APPs I have perused the charge-sheet. The informant had immediately given supplementary statement on 21/07/2016, in which he has stated that the actual price of the ruby was Rs.5 Crores and not Rs.5 lakhs, as mentioned in the FIR. He submitted that the informant's cousin Manoj had got the valuation done on 07/09/2015 from a Government valuer. He submitted certificate to that effect was given to the police. The charge-sheet further shows that the Applicant and his brother Manoj had identified both the Applicants in different identification parades. The informant had attributed role to Yunus. He has stated that Yunus had met the informant along with Likhith @ Nikhit at Galaxy Hotel, Santacruz and had conducted negotiations. As far as Applicant Nasir is concerned, according to the informant Nasir was with other persons in Xylo car and he had claimed to be a police constable attached to Thane Crime Branch. Similar are the statements of the informant's cousin Manoj. Learned counsel

for the Applicant Yunus submitted that he was arrested in Bangalore and at the time of his arrest that particular ruby was recovered. It was revalued and the valuation made by the the Government approved valuer at the instance of police was Rs.44,933/-. This certificate is dated 30/12/2016.

8. Thus, from the recovery it appears that the entire amount in this case is not in crores, but was around Rs.44,933/- for the ruby and some cash amount which will not go beyond Rs.1 lakh. For this offence, the Applicants are in custody for about 5 years. No injury was caused to the informant. The role attributed to the Applicant Yunus is very minor. Even as far as the Applicant Nasir is concerned, he was supposed to be person in Xylo car. But he had not assaulted the informant and his companions. No weapon was used in this offence. In this view of the matter, considering the fact that the trial is not likely to get over soon, I am inclined to grant bail to the present Applicants. Learned counsel for the Applicants make a voluntary statement that the Applicants are ready and willing to furnish local solvent sureties.

9. Hence, the following order :

**ORDER**

- (i) In connection with C.R.No.166/2016 registered with BKC Police Station, the Applicants are directed to be released on bail on their furnishing PR bond in the sum of Rs.50,000/- (Rupees Fifty Thousand Only) each, with one or two local solvent sureties each, in the like amount.
- (ii) The Applicants shall attend the dates in the trial Court regularly unless exempted by the trial Court.
- (iii) Applications stand disposed of accordingly.

**(SARANG V. KOTWAL, J.)**