

IN THE COURT OF METROPOLITAN MAGISTRATE,
17TH COURT, BORIVALI, MUMBAI

Notice No.1236/N/2022
in C.R. No.1295/2022
Samtanagar Police Station

ORDER BELOW EXH. 1

1. Perused the application. The applicant viz. Prest Diamant Corp. through its partner Prashant Shah has prayed for release of property i.e. one piece of Gold Bar of 40 grams and 20 carat Diamonds. Called say of I.O. and Ld. APP.
2. Applicant has stated that FIR vide C.R. No.1295/2022, u/s. 420 r/w 34 of IPC came to be lodged. During investigation, police have seized above mentioned property and it is lying at police station. Therefore, he is seeking possession of said property.
3. Perused say filed by I.O. and Ld. APP. The I.O. has given no objection to return the property to the applicant. Ld. APP has opposed this application stating that property is important evidence at the time of trial. If it is returned to the applicant, he may not produce the same as and when required.
4. In support of the application, applicant has filed his affidavit as well as affidavit of informant Tukaram Undare wherein he has given no objection to hand over the property to the applicant. He has placed on record photocopy of FIR, Aadhaar card, tax invoices of gold bars and diamonds standing in the name of his partnership firm Prest Diamant Corp. and authority letter dated 20.10.2020 given in favour of applicant by Prest Diamant Corp.

5. Heard Ld. Advocate for the applicant. No purpose will be served by unnecessarily depriving the applicant from custody of the property. Further the custody required to be given to the applicant is temporary. As applicant is entitled for the custody of property in question, application deserves to be allowed, on following terms.

ORDER

a) The seized property **i.e. one piece of Gold Bar of 40 grams and 20 carat Diamonds** be returned to the applicant viz. Prashant Shah on execution of bond/supurnama of **Rs. 15,00,000/-** (Rs. Fifteen lakhs only) by the concerned police station. The applicant shall affix his latest colour passport size photograph on the bond/supurnama.

b) The applicant shall not sell or dispose of the said property by any means till conclusion of trial.

c) The applicant shall produce above mentioned property before the Court for the purpose of trial.

d) The I.O. is directed to prepare proper panchanama of handing over of the property to applicant after weighing the same as well as snap the photographs and attach it with charge-sheet.

Date :08.02.2023

(A. P. Kokate)
Metropolitan Magistrate,
17th Court, Borivali, Mumbai.