

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

ANTICIPATORY BAIL APPLICATION NO. 1597 OF 2015

Mohammed Hakim Ansari ... Applicant.
S/o. Mohammed Ismail Ansari.

V/s.

The State of Maharashtra ... Respondent.

Mr. Karman Shaikh, Advocate i/by O.A.Siddiqui, Advocate for the Applicant.

Mrs. S. D. Shinde, APP for the Respondent- State.

P.H.No.2142 - Vijay Madhukar Naik attached to Bhiwandi Taluka Police Station, Bhiwandi, Dist. Thane is present.

CORAM : A. S. GADKARI, J.

DATE : 27th JANUARY, 2016.

P.C. :

1 The Applicant is apprehending his arrest in C.R.No. 161/2015 registered with the Bhiwandi Taluka Police Station, Bhiwandi, Dist. Thane, for the alleged offences punishable under sections 380 r/w. 34 of the Indian Penal Code.

2 The complainant has lodged the first information report dated 29th June, 2015, stating that he was searching a premises to start a hand-loom mill and, accordingly, he took one premises/gala on rental basis from the Applicant, the owner of Lucky Compound at Bhiwandi. The complainant, thereafter, purchased 24 English hand-loom machines of 52

inches. After the said machines were fixed in the rented premises, the complainant told the applicant, the owner of the premises to provide electric supply from the Toront Power Company, as without that the hand loom mill would not have been started. It is alleged by the complainant that the applicant did not respond to his request of supplying the electricity by fitting the electric meter in the said rented premises. It is stated by the complainant that thereafter, he put a lock to the said premises/gala and kept one key of the same with the adjacent leather factory shop owner. It is alleged by the complainant that thereafter, the Applicant put a different lock to the said premises by replacing the lock without taking the permission of the complainant.

3 It is alleged by the complainant that on 23th May, 2015 one Maksud Bhai, who was doing the work of fitting of the machines of the complainant, in the said premises/gala informed the complainant that some of the spare parts of the machines which were fixed in the hand-loom mill are found by him with one Scrap Dealer near Kamala Hotel. The complainant thereafter went to the site/place and inquired thereof. The owner of the Scrap Dealer by name Jallaluddin Khan informed the complainant that he had purchased the said goods from the Shafaq Loom Industries. The complainant thereafter visited his premises/gala and found that all his machines were dismantled and some of the spare parts of the machines were missing. The

complainant noticed that approximately 107 different spare parts of the loom machines, valued at Rs.2,00,000/- were stolen from the said rented premises/galas. In the premise, the complainant lodged the first information report with the Bhiwandi Taluka Police Station, Bhiwandi.

4 The record discloses that during the course of investigation, the police have seized spare parts of the machines of the complainant from the Scrap Dealer viz. Jallauddin Khan under the panchanama dated 21st August, 2015. It is pertinent to note here that the complainant in his compliant has specifically mentioned about the number and description of the spare parts of the machines alongwith other articles. However, the description of machines and or the number of spare parts has not been mentioned in the seizure panchanama which creates strong doubt about the investigation and the same will have to be gone into at the time of trial. It appears to me that the entire property involved in the present crime has been seized from the said Scrap Dealer. However, the Investigating Officer has not given the exact number of the spare parts with specific description thereof, seized under the panchanama.

5 In view of the above, the applicant needs to be protected by way of pre-arrest bail.

6 Interim relief granted by order dated 23rd October, 2015 is hereby confirmed.

7 The Application is allowed in the aforesaid terms.

(A.S. GADKARI,J.)

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