

IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CRIMINAL APPELLATE JURISDICTION

ANTICIPATORY BAIL APPLICATION NO.1767 OF 2017

HASTIMAL KISHANLAL JOSHI)...APPLICANT

V/s.

THE STATE OF MAHARASHTRA)...RESPONDENT

Mr.Ashok Kumar Mishra, Advocate for the Applicant.

Mr.S.S.Hulke, APP for the Respondent - State.

CORAM : A. M. BADAR, J.

DATE : 9th OCTOBER 2017

P.C. :

1 The applicant / accused in Crime No.131 of 2017 registered with Borivali Police Station, for the offence punishable under Section 406 of the Indian Penal Code (IPC) by this application is seeking pre-arrest bail.

2 Heard the learned advocate appearing for the applicant / accused. By drawing my attention to receipt issued by his customers named Pradeep Pawaskar and Dayashankar Singh, the learned advocate for the applicant / accused has submitted

that he has returned gold ornaments belonging to these two persons and he is also willing to settle the dispute with other customers. However, those customers are not approaching him. Mediation also failed because those customers did not approach him.

3 The learned APP opposed the application by contending that statements of seven witnesses who are victims of the crime in question are recorded by the Investigator and there is possibility of some more names surfacing on record alleging criminal breach of trust by the present applicant / accused.

4 I have considered the rival submissions and also perused the case diary. The crime in question is registered on the basis of First Information Report (FIR) lodged on 31st March 2017 by Padma Kapil Sanyamurthy who alleged that right from the year 2011 to 2016 she pledged several gold ornaments with the present applicant / accused, who is a jeweller doing money lending business. He is charging 15% interest. When she went to

repay the amount of loan in the festival of navratri, she found shop named Samrat Jewellers owned by the present applicant / accused closed. She apprehended criminal breach of trust by the present applicant / accused and on enquiry she found that by operating similar modus-operandi, five more customers are cheated by the present applicant / accused. The FIR contains names of Nagnath Tarte, Pradeep Pawaskar, Sanjay Jadhav, Prabhakar Pashram and Dayashankar Singh. Statements of these persons are recorded by the Investigator. Some of them have stated that they had pledged gold ornaments with the present applicant / accused who is owner of M/s.Samrat Jewellers, but when they went to take back their gold ornaments, the applicant / accused refused and subsequently closed his shop. Some of them have alleged that they had given old gold ornaments along with some amount for preparing new gold ornaments, but the applicant / accused has cheated them.

5 It appears that applicant / accused has handed over gold ornaments to two of his customers but as yet other customers

have not received their gold ornaments. The Investigator is apprehending that some more aggrieved persons may be traced out. Ornaments were accepted long back by the present applicant / accused and now, after registration of crime, his willingness to go for mediation is of no use. Prima facie, it appears that the applicant / accused has misappropriated the jewellery entrusted to him and he was indulging in illegal money lending business by pledging jewellery. Ultimately, recovery is required to be effected and for that purpose custodial interrogation of the present applicant / accused is warranted.

6 No case for pre-arrest bail is made out.

 The application is rejected.

(A. M. BADAR, J.)