

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

CRIMINAL ANTICIPATORY BAIL APPLICATION NO.1331 OF 2017

Prashant Prithviraj Jain

... Applicant

vs.

The State of Maharashtra

... Respondent

.....

Mr. Amol A. Deshpande for the Applicant.

Mr. S. R. Agarkar, APP for the State.

CORAM : T. V. NALAWADE, J.

DATE : 23.08.2017.

P.C.:

1. The application is filed for relief of Anticipatory Bail in C.R. No. 171/2016 registered in Vadgaon Maval Police Station, District Pune for the offences punishable under Section 380, 454, 457 etc. read with 34 of Indian Penal Code. It can be said that as against the present applicant the provision of Section 412 of IPC, receiver of stolen property can be used. Both the sides are heard. The papers of investigation including remand report were shown to this Court.

2. The papers of investigation show that the persons who have committed theft were arrested and during interrogation it transpired that were involved in many theft cases. Many incident of theft were then detected. In the present matter there is allegation that by committing offence of house breaking, the ornaments of informant like gold chain, gold Kang, Gold bids were stolen and the value of the property was around Rs.1,00,000/-. The thief took police after giving statement under Section 27 of the Evidence Act to the shop of present applicant and informed that he had sold the aforesaid ornaments to the present applicant. Present applicant denied that the ornaments were sold to him. As the applicant was not arrested immediately, he filed the

proceeding like Anticipatory Bail first in Sessions Court and then in this Court.

3. The learned counsel for applicant submitted that the applicant is an honest goldsmith and he had fixed closed circuit cameras in his shop and the applicant has shown the CCTV footage to police to explain that accused had never come to him. The learned counsel submitted that accused was changing the version time and again and he was saying that the gold was not handed over inside the shop but it was handed over outside the shop. The learned counsel submitted that on the basis of the statement of the thief it is not desirable to allow the police to arrest the present applicant. The submissions made on record show that the said thief had taken police to the shop of one more goldsmith and it was informed that the articles of theft of other crime were sold to that goldsmith. Those articles are recovered from that goldsmith.

4. Considering the powers of Investigating Officer given under CRPC it can be said that it is a matter of subjective satisfaction of Investigating Officer. The submissions made show that the Investigating Officer is certain that the aforesaid ornaments were sold to the present applicant. As the applicant is denying receipt of stolen property, custodial interrogation needs to be made and only after that the material can come out in support of the aforesaid allegations. Granting relief of Anticipatory Bail in such a case will totally hamper the investigation and due to that the possibility of recovery of the stolen property will be ruled out. Due to these circumstances, this Court holds that protection cannot be given to the present applicant of Anticipatory Bail. In the result the application stands rejected. Interim relief already granted stands vacated.

(T. V. NALAWADE, J.)