

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
CRIMINAL ANTICIPATORY BAIL APPLICATION NO. 1606 OF 2017**

Shakil Mobin Khan	...Applicant
Versus	
The State (Narpoli Police Station)	...Respondent

Mr. Pravin H. Padave I/b Mr. Ramesh Mishra for the Applicant

Mr. S. S. Pednekar, A.P.P for the Respondent-State

CORAM : REVATI MOHITE DERE, J.
FRIDAY, 15th SEPTEMBER, 2017

P.C.

1. Heard learned Counsel for the parties.

2. By this application, the applicant seeks pre-arrest bail in connection with C.R. No. I-312 of 2017 registered with the Narpoli Police Station, for the alleged offences punishable under Sections 120(B), 454, 457, 380, 406, 411, 34 of the Indian Penal Code.

3. Learned Counsel for the applicant submitted that the applicant, at the highest, is the receiver of the stolen property. He submitted that the

applicant is, in no way, concerned with the alleged offence. He further submitted that there is nothing to show that the fabric, which was found in the applicant's godown, worth Rs. 18 lakhs, belonged to the complainant.

4. Learned A.P.P opposed the bail application. He submitted that the swatches handed over by the complainant, match the fabric material, which was seized from the complainant's godown. He further relied on two statements i.e. of the loader and the driver, which clearly show the applicant's complicity.

5. Perused the papers. According to the complainant-Rajiv Sharma, he is in the business of garment manufacturing and export, having his office at Marol, Andheri and a manufacturing unit at Bhiwandi. According to the complainant, one key of the godown at Bhiwandi was with him and the second key was with his employee-Dinesh Kondalkar. The complainant has alleged that on 31st May, 2017, at about 12:00 noon, Ratnakar Kadam, also one of his employee, went to the godown for taking sample and after that, handed over the keys to Dinesh Kondalkar. The complainant has further stated that on 12th July, 2017, when he went to the

godown, he found material worth Rs. 1.44 lakhs, missing from his godown, pursuant to which, he lodged the aforesaid complaint. During police investigation, it was revealed that one Vikas Singh, who was earlier working as a Security Guard for the complainant's company, along with other co-accused, including the applicant, committed the offence. Pursuant thereto, 6 accused were arrested in the aforesaid case. It is pertinent to note, that fabric worth Rs. 18,38,700/- was seized from the applicant's godown. The swatches given by the complainant, match the fabric found in the applicant's godown. The statement of Rajesh Kashyap, a loader and the statement of Pandurang Keni, driver of the tempo, in which, the fabric was transported, clearly show the complicity of the applicant. Rajesh Kashyap has stated that the applicant was present along with others, including Vikas Singh when the fabric was removed from the godown. The statement of Pandurang Keni also shows that the applicant was present when the fabric were removed from the complainant's godown along with other co-accused. The total amount of fabric that was missing is worth Rs. 1.44 lakhs whereas, fabric worth Rs. 18,38,700/- were found in the applicant's godown.

6. Considering the aforesaid, custodial interrogation of the applicant is necessary. The application is accordingly rejected.

7. It is made clear that the observations made herein are *prima facie*, for the purpose of deciding this application and if an application for regular bail is filed, the same shall be decided on its own merits, uninfluenced by the observations made in this order.

REVATI MOHITE DERE, J.