

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE SIDE JURISDICTION
CRIMINAL ANTICIPATORY BAIL APPLICATION NO. 1829 OF 2016

Shivaji Nilkanthappa Dharmagude

.....Applicant

V/s.

The State of Maharashtra

....Respondent

Mr. Vaibhav V. Ugle Advocate for the Applicant.

Mr. Ajay Patil APP for the State.

CORAM : SMT. SADHANA S. JADHAV, J.

DATED : 6th MARCH, 2017.

PC :

1) Heard. This is an application under section 438 of Code of Criminal Procedure, 1973. Applicant herein is apprehending his arrest in crime no. 100 of 2016 registered at Dombivli police station for offence punishable under sections 380 & 411 of the Indian Penal Code.

2) It is the case of the prosecution that on 12/05/2016, Smt. Vimal Waghmare lodged a report at the police station that one Archana Suryawanshi was residing in her house as tenant. That sometime in the year 2015, golden ornaments were found missing. They had not suspected anybody, however, on

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22/03/2016, they had received a phone call from son of Archana namely Ajay informing that son of Archana who is juvenile in conflict with law had stolen golden ornaments and had given the same to his mother. It was alleged that Archana had sold the said golden ornaments at Latur i.e. to the present applicant. The allegation against the present applicant is that he was receiver of the stolen property.

3) The learned counsel for the applicant submits that at this stage, no knowledge can be attributed to the present applicant that he had knowledge that the golden ornaments were stolen property. It is also submitted that applicant herein is suffering from cancer and that he is under treatment at Ruby Hall Clinic. He is suffering from *Carcinoma Right lateral Border of Tongue*. He is getting radio therapy.

4) Taking into consideration the material collected in the course of investigation, applicant deserves to be granted pre-arrest bail. However, it is made clear that observations made herein above are restricted to an application under section 438 of the Code of Criminal Procedure, 1973 and

shall not be considered for quashing of F.I.R., discharge application or at the time of trial.

ORDER

- (i) Application is allowed.
- (ii) In the event of arrest, applicant be enlarged on bail on furnishing P.R. bond in the sum of Rs. 50,000/- with one or more local solvent sureties in the like amount.
- (iii) Applicant shall report to the concerned police station as and when called after having issued a notice under section 160 of the Code of Criminal Procedure, 1973.
- (iv) Application stands disposed of.

(SMT. SADHANA S. JADHAV, J.)