

IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CRIMINAL APPELLATE JURISDICTION

ANTICIPATORY BAIL APPLICATION NO.2009 OF 2017

SOHAIL SALIM SHAIKH

)...APPLICANT

V/s.

THE STATE OF MAHARASHTRA

)...RESPONDENT

Mr.Fakhruddin Khan a/w. Mr.Siddiqui Mohd. Arif, Advocate for the Applicant.

Ms.Anamika Malhotra, APP for the Respondent - State.

CORAM : A. M. BADAR, J.

DATE : 17th NOVEMBER 2017

P.C. :

1 The applicant/accused in Crime No.487 of 2017, for offences punishable under Sections 379 and 411 of the Indian Penal Code registered with Borivali Police Station, at the instance of Allen George Silverra, by this application, is seeking pre-arrest bail.

2 Heard the learned advocate appearing for the applicant/accused. He argued that there is no legal evidence to connect the applicant/accused with the crime in question. It is further argued that the applicant/accused is not having any criminal antecedents.

3 The learned APP opposed the application by submitting that there was theft of cell phone and purse of First Informant Allen and on the basis of information received after interrogating the co-accused, complicity of the present applicant/accused in the crime in question is revealed.

4 I have carefully considered the rival submissions and also perused the case diary.

5 First Informant Allen reported that an unknown thief had committed theft of his cell phone and purse from his bag in the night intervening 18th July 2017 and 19th June 2017, when he

was traveling in the local train. During investigation, the stolen cell phone was found with one Mohd. Amir Shaikh. He informed the Investigator that he had purchased the cell phone from co-accused Rahil Multani. During interrogation, the co-accused informed that he had purchased the cell phone from the present applicant/accused.

6 Even according to the prosecution, except the statement of co-accused, there is no other independent evidence to point out that the applicant had dishonestly received the stolen cell phone knowing or having reason to believe the same to be a stolen cell phone. The applicant/accused is not having any criminal antecedents. In this view of the matter, considering the nature of evidence available against the present applicant/accused, his custodial interrogation is not warranted. As such, the order :

ORDER

i) The application is allowed.

- ii) In the event of arrest in Crime No.487 of 2017, for offences punishable under Sections 379 and 411 of the Indian Penal Code registered with Borivali Police Station, the applicant / accused shall be released on bail on his executing P.R.Bond in the sum of Rs.15,000/-, and on furnishing surety in like amount.
- iii) The applicant / accused shall not tamper with the prosecution evidence.
- iv) The applicant / accused shall not directly or indirectly, make any inducement, threat or promise to any person acquainted with the facts of the case, so as to dissuade him from disclosing such facts to the court or to the Police Officer.
- v) The applicant / accused shall attend the concerned Police Station on 24th November 2017 and 28th November 2017 between 11.00 a.m. and 1.00 p.m. till filing of the charge-sheet, and shall co-operate the Investigator in the investigation of the crime.
- vi) The application is disposed of.

(A. M. BADAR, J.)