IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

ANTICIPATORY BAIL APPLICATION NO. 532 OF 2018

Kalpana Mohan Makwana ….Applicant
V/s.
Union of India ….Respondent

Mr. Ashish S. Chavan for the applicant.
Ms. Purnima H. Kantharia, Special PP for respondent no.1.
Mrs. J.S. Lohkare, APP for the State.

CORAM: SMT. ANUJA PRABHUDESSAI, J.
DATED: 21st AUGUST, 2018.

P.C.:

. The applicant herein has filed this application under section 438 of Criminal Procedure Code, apprehending her arrest in Crime No.5/2018 registered at Moti-Daman Coastal Police Station for the offence punishable under section 409 of the Indian Penal Code.

2. Heard Mr. Ashish S. Chavan, learned counsel for the applicant, Ms. Purnima H. Kantharia, learned Special PP for the State and Mrs. J.S. Lohkare, learned APP for the State. I have perused the records and considered the submissions advanced by the learned counsels for the respective parties.

3. The applicant herein was working as Talathi, Damanwada Sasa. By letter dated 13/10/2017, the applicant has reported to the Mamlatdar, Daman that mutation register i.e. Form No.9 of Village Damanwada Sasa is missing from her cupboard and that she was unable to trace it despite her effort to trace it. The Mamlatdar, Daman had therefore informed the concerned Station House Officer, Coastal Police Station, Moti Daman to take necessary action in that regard. Subsequently, by another letter dated 11/01/2018, the Mamlatdar once again reported to Station House Officer that the applicant has misplaced the said mutation register. In the said letter, he has stated that the register was entrusted to the applicant and that the said register was maintained by the applicant and was in her safe custody. As a Talathi of Damanwada Sasa, it was the responsibility of the applicant to maintain the revenue records in the safe custody despite which the register was missing and was not available with her. Based on the first information report, the aforesaid crime was registered.

4. It may be mentioned here that the allegations in the first information report *prima facie* indicate that the register was entrusted to the applicant and that the same has been missing. Suffice to say that in order to constitute the criminal breach of trust, there has to be *prima*

facie material to show that the person with whom the property was entrusted or who had dominion over the property had dishonestly used or disposed of the property. In the present case, *prima facie* there are no such allegations.

5. Considering the above facts and circumstance, in my considered view, this is a fit case for grant of anticipatory bail. Hence, the Anticipatory Bail Application is allowed on following terms and conditions :-

(a) In the event of arrest of the applicant in Crime No.5/2018, she shall be released on bail on furnishing fresh bail bond of Rs.25,000/- (Rupees Twenty Five Thousand) with one or two solvent sureties in the like amount, to the satisfaction of Investigating Officer.

(b) The applicant shall remain present before the Investigating Officer as and when required by the Investigating Officer for the purpose of interrogation.

(c) The applicant shall furnish the details of her permanent as well as temporary address and her contact number to the Investigating Officer.

(d) The applicant shall not change her residential address without prior intimation to the Investigating Officer.

(SMT. ANUJA PRABHUDESSAI, J.)