

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

ANTICIPATORY BAIL APPLICATION NO. 944 OF 2017

Mr. Ladulal Nananlal Chaudhari & Anr. ... **Applicants**

V/s.

The State of Maharashtra ... **Respondent**

**WITH
CRIMINAL APPLICATION NO. 464 OF 2017
IN
ANTICIPATORY BAIL APPLICATION NO. 944 OF 2017**

Harakchand Savla ... Applicant/ Intervener

IN THE MATTER BETWEEN

Mr. Ladulal Nananlal Chaudhari & Anr. ... **Applicants**

V/s.

The State of Maharashtra ... **Respondent**

Mr. Dinesh Tiwari a/w Swapnil Ambure with Mikhail Day and Tanvi Mehta i/b
Dinesh Tiwari & Asso.for the Applicant.

Mr. R.M. Pethe, APP for the Respondent/State.

Mr. Girish Kulkarni for the intervener.

PI Hindlekar attached to Borivali Police Station.

CORAM : A.S.GADKARI, J.

DATE : 24th JANUARY, 2018

P.C.:

. This is an application under Section 438 of Cr.P.C. for pre-arrest bail in C.R.

No. 584 of 2016 dated 01.12.2016 registered with Borivali Police Station,

Mumbai under Sections 406 and 420 of the Indian Penal Code.

2 By an Order dated 31.05.2017, the Applicants were granted interim relief and by subsequent Orders, the Applicants were directed to attend Investigating Officer and to join the process of investigation.

3 The first information report is lodged by Harakchand Savla, Trustee of Sambhavnath Jain Mandir, Borivali. It is the prosecution case in brief that, the co-accused Mahendrabhai Pawesha and Prakash Shah were the Trustees of erstwhile Committee and during their tenure, they committed criminal breach of trust of the said Trust and defalcated silver used for decoration of the said Temple weighing approximately 330 kgs amounting to Rs.1,85,00,697/-.

4 Perused the record annexed to the application and the record of investigation. It appears from the record that, the allegation against the Applicant No.1 is that, he is receiver of stolen property from co-accused and the Applicant No.2 being his servant helped and/or assisted him in committing the said offence. In the present crime the police have already submitted charge-sheet. The statements of witnesses indicate that co-accused Hiren Baria used to bring silver bricks weighing about 5 to 7 kgs at the shop of Applicant No.1 and after the same is sold, the Applicant used to handover its consideration to the Accused No.1 Mahendra Pawesha. In Criminal Writ Petition No. 4589 of 2016 filed by Shri. Shantilal Shah, a Trustee of the said Trust, the Investigating Officer has submitted a report dated 04.05.2017 before the Division Bench of this Court wherein it is stated that, the value of silver as per the record of the said Trust in

the year 2015 was about Rs.11,72,416/- and silver weighing about 27.143 kgs has been recovered at the instance of Applicant No.1 which is amounting to Rs.15,21,710/-. Thus as per the prosecution case itself, the property seized at the behest of Applicants is more in value than what has been revealed during the course of investigation to be defalcated by the accused persons.

5 Taking into consideration the peculiar facts of the present case, this Court is of the view that custodial interrogation of the Applicants for further investigating of the present crime is not necessary.

Interim relief granted by an Order dated 31.05.2017 is hereby confirmed. However, the condition to attend the concerned Police Station/ Investigating Officer is waived.

6 Application is allowed in the aforesaid terms.

7 In view of order passed in ABA No. 944 of 2017, application for intervention does not survive and same is disposed off.

(A.S.GADKARI, J.)