

IN THE HIGH COURT OF JUDICATURE AT BOMBAY**CRIMINAL APPELLATE JURISDICTION****ANTICIPATORY BAIL APPLICATION NO. 789 OF 2018**

Shaikh Hasan Shaikh Abdul Khalek AliApplicant.

Vs.

The State of Maharashtra & Anr.Respondents.

WITH

CRIMINAL APPLICATION NO. 655 OF 2018

IN

ANTICIPATORY BAIL APPLICATION NO. 789 OF 2018

Amiya Kumar Chandan Kumar PaulApplicant.

IN THE MATTER BETWEEN-

Shaikh Hasan Shaikh Abdul Khalek AliApplicant.

Vs.

The State of Maharashtra & Anr.Respondents.

Mr. A.A. Siddiquie I/by A.A. Siddiquie for the Applicant.

Mr. Amit Palkar APP, for the Respondent-State.

Mr. Aniket Nikam I/by Aashish Satpute for the Intervenor.

CORAM : A. S. GADKARI, J.

DATE : 24th NOVEMBER, 2018.

P.C.:-

The Applicant is apprehending arrest in CR No.177 of 2017 dated 5th August, 2017 registered with Faraskhana Police

Station, Pune under Section 408 of the Indian Penal Code.

2 Heard the learned counsel appearing for the Applicant, the learned counsel for the first informant and the learned APP. Perused the record of investigation.

3 The first information report is lodged by Shri Ameykumar Pal. It is the prosecution case in brief that, the Applicant was working as an employee with the first informant in his jewelry manufacturing shop. That, the Applicant being the servant of the first informant, on 2nd August, 2017 committed criminal breach of trust and has defalcated 285 grams of gold amounting to Rs.8,60,000/-, which was belonging to the first informant.

4 The learned counsel appearing for the Applicant submitted that, the Applicant has already returned the said gold to the first informant and a Memorandum of Understanding dated 23rd December 2017, has been executed between the Applicant and the first informant in that behalf. The same is executed in presence of the various witnesses, who hailed from the native place of the Applicant. He further submitted that, one of the signatories is the brother of the first informant. He submitted that, as the Applicant has already returned the ornaments to the first informant, there is no question of

custodial interrogation of the Applicant and therefore, the Applicant may be protected by pre-arrest bail.

5 The learned counsel appearing for the first informant, on instructions, submitted that the signature of the Complainant/Informant appearing on the Memorandum of Understanding is not a genuine one and is forged. The first informant in his supplementary statement has also denied the execution of the said MOU.

6 The learned APP produced before me the record of investigation. It *prima facie* appears that, the Applicant with a view to create defence in his favour, has manufactured the said document, i.e. the MOU, which according to me aggravates the nature of the allegations made against the Applicant and which further requires thorough investigation.

7 The gold involved in the present crime is yet to be recovered by the police. The police are also required to investigate who are the other persons who helped the Applicant in allegedly forging the signatures of the first informant and other witnesses and the same is not possible without there being thorough interrogation by the police *qua* the Applicant.

8 After taking into consideration the serious allegations against the Applicant and the gravity of the offence, this Court is of the considered view that, the Applicant does not deserve to be protected by pre-arrest bail.

9 Application is accordingly rejected.

10 In view of the Order passed in Anticipatory Bail Application No. 789 of 2018, Criminal Application No. 655 of 2018 does not survive and is accordingly disposed off.

11 At this stage, the learned counsel for the Applicant prayed for extension of interim relief, so as to enable him to prefer an Appeal in the Hon'ble Supreme Court. After taking into consideration the allegations of aggravated form and the gravity of the offence the said prayer is rejected.

(A.S. GADKARI, J.)