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

ANTICIPATORY BAIL APPLICATION NO.1320 OF 2018

Abbas Mjlum Khan

..Applicant

Vs

The State of Maharashtra & Anr

..Respondents

Mr. S.R. Mishra for Applicant.

Mr. Ajay Patil, APP for State.

CORAM : A.S.GADKARI, J.

DATE : 22nd November 2018.

P.C.:

1] This is an application under section 438 of Cr. P.C for pre-arrest bail in CR No.126 of 2018 dated 16.5.2018 registered with Khandeshwar Policed Station, Navi Mumbai under section 392 read with 34 of the Indian Penal Code.

2] Heard the learned counsel for the applicant and the learned APP. Perused the record.

3] The first information report is lodged by Ms. Kanta S. Narvade. The prosecution case in brief is that, when the prosecutrix was proceeding to a shop for purchase of milk, two persons on a motorcycle came near her and one of them snatched gold ornaments from her person and fled away

from the scene of offence. During the course of investigation, the accused No.1 Sadiq Jafery has been arrested by the police. During his custodial interrogation, the name and role played by the applicant as his accomplice has been revealed and therefore the police are seeking custody of the applicant for further investigation of the present crime.

4] The learned counsel for the applicant submitted that, the first information report is silent about the name and role played by the applicant. That the ornaments involved in the present crime have already been recovered at the instance of accused No.1 and therefore the custody of the applicant for recovery of the said ornaments is not necessary. He therefore prayed that the applicant may be granted pre-arrest bail.

5] Per contra, the learned APP for the State produced on record a report submitted by the Senior Police Inspector, Unit No.II, Crime Branch, Navi Mumbai dated 21.11.2018. It is stated that, apart from the present crime, the applicant is involved in nine other crimes of similar nature. The said crimes are as under:-

- 1] CR No.270 of 2016 registered with Nerul Police Station, Navi Mumbai under sections 399, 34 of Indian Penal Code.
- 2] CR No.288 of 2016 registered with Nerul Police Station, Navi

Mumbai under sections 392, 34 of Indian Penal Code.

- 3] CR No.266 of 2016 registered with Kopar Khairane Police Station, Navi Mumbai under sections 392, 34 of Indian Penal Code.
- 4] CR No.272 of 2016 registered with Kopar Khairane Police Station, Navi Mumbai under sections 392, 34 of Indian Penal Code.
- 5] CR No.281 of 2016 registered with Kopar Khairane Police Station, Navi Mumbai under sections 392, 34 of Indian Penal Code.
- 6] CR No.199 of 2016 registered with Panvel Taluka Police Station under sections 392, 34 of Indian Penal Code.
- 7] CR No.128 of 2016 registered with Panvel Taluka Police Station under sections 392, 34 of Indian Penal Code.
- 8] CR No.219 of 2016 registered with Khargar Police Station under sections 392, 34 of Indian Penal Code.
- 9] CR No.91 of 2016 registered with Narpoli Police District Thane Station under sections 392, 34 of Indian Penal Code.

It is submitted that, the applicant is also involved in crime under the provisions of Maharashtra Control of Organised Crime Act, 1999. He

therefore prayed that, the present application for pre-arrest bail may be rejected.

6] The record of investigation indicates that, as noted earlier,during the course of custodial interrogation of co-accused Sadiq Jafery, the name and role played by the applicant has surfaced on record. The applicant was earlier released on bail in other crimes and when on bail he has committed the present crime. Apart from this, the applicant is also involved in aforesaid nine crimes. Thus it is clear that the applicant is a habitual offender.

7] After taking into consideration the antecedents at the discredit of the applicant and the need for custodial interrogation for further investigation, this Court is of the view that the applicant does not deserve to be protected by pre-arrest bail.

8] Application is accordingly rejected.

(A.S.GADKARI, J.)