

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

ANTICIPATORY BAIL APPLICATION NO. 2189 OF 2019

Mr. Mehbub Rajesab Tinwale	 Applicant
Versus	
The State of Maharashtra	 Respondent

Mr. Krishna K. Holambe Patil, Advocate for the Applicant.
Mr. Prashant Jadhav, APP for the State/Respondent.
Mr. Abhijeet Bhosale, PSI, Laxmipuri Police Station, Kolhapur,
present.

CORAM : SARANG V. KOTWAL, J.
DATE : 09th OCTOBER, 2019

P.C. :

1. The Applicant is seeking anticipatory bail in connection with C.R.No. 199 of 2019 registered with Laxmipuri Police Station, Kolhapur, on 29/07/2019 under sections 406 and 420 of the Indian Penal Code.
2. The FIR is lodged by one Pappusingh Devda who is a jeweller by profession. He has stated in his FIR that he has a shop by name Raj Jewellers, in which, he was selling silver ornaments, masks, glasses etc. He has a workshop in the house of one Manoj

Purohit in Teli Galli, Kolhapur. He had kept three workers in the workshop and the main contractor was the present applicant. The applicant was originally resident of Karnataka State. He was residing in the house of Manoj Purohit on rent. The FIR mentions that the applicant used to take silver from the informant as per his requirement. In the month of July 2019 he had taken about 46 Kg. of silver. As per usual practice the silver articles were kept in an iron safe in the workshop itself. The silver was also kept there and it was provided to the workers as and when it was required for making articles. It is specifically mentioned in the FIR that the keys of that safe were kept with the applicant and his wife. On 24/07/2019 the informant did not receive his silver articles from the workshop and, therefore, he tried to contact the applicant. The applicant was unreachable. The informant was told that the applicant had gone to Belgaum. Even thereafter he could not be contacted. On 26/07/2019, in the afternoon, the informant's employee Suhas Jondhale informed him that the keys of the safe were found and when the safe was opened it was found to be empty. The informant checked the CCTV footage in the workshop.

He realised that the hard-disk was formatted and there was no CCTV footage available. Therefore, he was convinced that the applicant had taken away silver and other articles of silver. In all, the applicant had taken 46.179 Kg. of silver worth Rs.17,54,800/- and silver articles weighing 30Kg. worth Rs.7,41,000/-. On this basis, the FIR is lodged.

3. Heard Shri. Holambe Patil, learned counsel for the applicant and Shri. Prashant Jadhav, learned APP for the State.

4. Learned counsel for the applicant submitted that the applicant was just one of the workers working with the informant and, therefore, there was no question of the informant entrusting him with the silver and other articles. The workshop was of the informant himself and, therefore, it could not be said that the applicant had misappropriated the alleged articles. He further submitted that the hard-disk cannot be formatted. Shri. Holambe Patil, thus, emphasized that, it is a false case because the informant did not want to pay dues of the applicant. He, therefore, prayed for grant of anticipatory bail to the applicant. Shri. Jadhav, learned APP, on the other hand, produced before me the papers of

investigation conducted so far. The investigation papers contains statement of one Suhas Jondhale who is referred to in the FIR. He has stated in that statement that he himself had given the silver weighing more than 15 Kg. to the applicant on 23/07/2019. On 24/07/2019 the applicant went to Belgaum carrying a big bag. Thereafter he did not return. Initially, the applicant's wife refused to handover keys on the pretext that she did not have those keys, but subsequently she produced those keys. The safe was opened, but it was empty. Thus, this statement clearly supports the allegations in the FIR. At this stage, there is sufficient material against the applicant necessitating custodial interrogation. The submission in respect of dues of the applicant can be his defence, but even for recovering his dues, the applicant cannot unilaterally take away informant's goods without his permission. Applicant's custodial interrogation is necessary. In this view of the matter, there is no merit in the application.

5. The application is rejected.

(SARANG V. KOTWAL, J.)