IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

ANTICIPATORY BAIL APPLICATION NO.1191 OF 2019

Mrs.Vijayalaxmi Amit Bali .... Applicant
versus
The State of Maharashtra .... Respondent
…....

- Mr.Ankit Rajput i/b. Law Cell, Advocate for Applicant.
- Mr.Prashant Jadhav, APP for the State/Respondent.
- Mr.Shrinivas Patil, Advocate for Intervener.
- PSI Mr.B.V. Dodmise, Chatushrungi Police Station, Pune, present.

CORAM : SARANG V. KOTWAL, J.
DATE : 16th AUGUST, 2019

P.C. :

1. The Applicant is seeking anticipatory bail in connection with C.R.No.353/19 registered with Chatushrungi Police Station, Pune, under sections 420, 468 and 471 of the Indian Penal Code.

2. The FIR is lodged by the husband of the Applicant on 03/04/2019. He has mentioned in his FIR that the Applicant was working as a Manager with Indian Overseas Bank, Aundh

Branch, Pune. The informant and the Applicant had hired a locker with the same branch in the year 2012 and its keys were kept with the Applicant. He has mentioned in his FIR that the Applicant herself was operating that locker. They had opened a joint account on 04/02/2018. He had opened two Recurring Deposit Accounts. It is further alleged in the FIR that the Applicant had suggested that all the ornaments of the family should be kept in the locker so that they would be safe. Thus, according to the first informant they had kept the ornaments including their ancestral ornaments in that locker. The Applicant used to operate that locker for family functions and other occasions. He has specifically mentioned in his FIR that he had never kept or removed ornaments from the locker. It is mentioned that some cash was also kept in the locker. Thus, in all, ornaments and cash worth Rs.45,00,000/- were kept in that locker. It is further mentioned in the FIR that the Applicant was promoted to the post of Senior Manager and was transferred to Mumbai. Since 2014 she was working there. The informant himself was working at Thane and since June 2017 he came back to reside in Pune. Since then the Applicant and the informant were residing separately. It is alleged in the FIR that, on 11/02/2018, he told the Applicant to bring the ornaments because the family members wanted to attend a wedding ceremony on that day. The Applicant did not meet him. The bank informed the informant that the Applicant had closed the locker on 12/02/2018 and had taken away their all the articles in the locker. The informant was further informed by the bank that the Applicant had submitted an application for closing the locker facility as well as for closing the Recurring Deposit Account. According to the informant, he had never signed such forms and therefore this FIR was lodged.

3. Heard learned Counsel Mr.Ankit Rajput for the Applicant, learned Counsel Mr.Shrinivas Patil for the Intervener and learned APP Mr.Prashant Jadhav for the State.

4. The learned Counsel for the Applicant relied on the document whereby the bank had permitted the locker to be operated by either the Applicant or the informant jointly or

severally. A copy of bank's authority letter to that effect dated 10/07/2012 is annexed to this application at page No.97. The operation of the locker is evident from another document. It's copy is annexed to this application at page No.157. It shows that on 12/02/2018, the Applicant had operated the locker. The locker was surrendered on the same day i.e. 12/02/2018. He submitted that since the Applicant could access and operate the locker by herself, it cannot be said that if she had taken away articles, she had committed any offence. He further submitted that FIR is lodged against the present Applicant only after she had initiated the proceedings under the Protection of Women from Domestic Violence Act (D.V. Act). He therefore submitted that the Applicant has not committed any offence. He further submitted that the application for surrendering the locker is signed by the informant and that there was no forgery.

5. As against these submissions, learned Counsel Mr.Shrinivas Patil for the Intervener as well as learned APP submitted that the application for surrendering the locker is not

signed by the informant. However, according to them, this fact cannot be verified from any Government Handwriting Expert because the original form is not available with the bank. At the same time, a photocopy of such form is submitted to the Investigating Officer by the bank. Since the original is not available, the investigating agency is left with no option, but to send a photocopy to the expert for comparing signatures of the informant. However, till today it is not sent.

6. Learned Counsel for the Intervener submitted that the informant had not signed that form, which can be verified when the expert's opinion is sought. He further submitted that though the Applicant had full access to the locker, the ornaments included their ancestral ornaments and if she had taken them away, she has committed the offence of misappropriation of that cash amount and ornaments.

7. I have taken all these submissions into consideration. The Applicant has two minor daughters aged 2 and 7 years of

age respectively. The informant and the Applicant obviously have their matrimonial dispute, which is clear from the fact that the Applicant has lodged a complaint under the D. V. Act. As on today, the investigation has not revealed whether the signature of the informant on the account closing form and the locker surrendering form was made by the informant. The Applicant had exclusive access, to the locker and to the articles were kept in that locker. Therefore at this stage, it is difficult to observe that the Applicant has committed any misappropriation of the property. However, that fact will have to be decided if and when the trial takes place. For that purpose, custodial interrogation of the Applicant may not be strictly necessary. I have also taken into consideration the fact that the Applicant has very young daughters, who need her care and therefore at this stage if custodial interrogation is permitted, not only the Applicant, but even the Applicant's daughters will face irreparable damage in their upbringing, which can be avoided at this stage. The allegations stem from their matrimonial dispute. Investigation in this case is basically based only on the question whether the signature on that particular form is forged or not. That investigation can go on without arrest of the Applicant. The Applicant is working on a respectable position. Therefore she is not likely to abscond. However, she will have to cooperate with the investigation. In this view of the matter, I am inclined to grant anticipatory bail to the Applicant. Hence, the following order :

ORDER

(i) In the event of her arrest in connection with C.R.No.353/19 registered with Chatushrungi Police Station, Pune, the Applicant is directed to be released on bail on her furnishing PR bond in the sum of Rs.25,000/- (Rupees Twenty Five Thousand Only) with one or two sureties in the like amount.

(ii) Application stands disposed of accordingly.

(SARANG V. KOTWAL, J.)