

Anand

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

ANTICIPATORY BAIL APPLICATION NO. 1735 OF 2019

Amarkumar Chanak .Applicant

Vs.

The Senior Inspector of Police, .Respondents
L T Marg Police Station & anr.

**WITH
CRIMINAL APPLICATION NO. 1147 OF 2019
(For Intervention)
IN
ANTICIPATORY BAIL APPLICATION NO. 1735 OF 2019**

Rakesh Rabindra Samanta .Intervenor

IN THE MATTER BETWEEN

Amarkumar Chanak .Applicant

Vs.

The Senior Inspector of Police, .Respondents
L T Marg Police Station & anr.

Mr. Taraq Sayyed i/b. Ms Smita Deokar, Advocate, for the Applicant
Mr. S. V. Gavand, APP, for the Respondents – State
Mr. Rajendra J. Rathod, Advocate, for the Intervenor
Mr. Ganesh Dalvi, API, L T Marg Police Station, Mumbai present

CORAM : REVATI MOHITE DERE, J.

DATE : 13.08.2019

P.C.

. Heard learned counsel for the parties.

2. By this Application, the Applicant seeks pre-arrest bail in connection with C. R. No. 171 of 2019 registered with the L T Marg Police Station, Mumbai, for the alleged offences punishable under Sections 409 r/w 120B of the Indian Penal Code.

3. Learned counsel for the Applicant submits that the dispute if any, between the parties, is a civil dispute and that no offence as alleged is disclosed qua the Applicant. He further submits that the signature of the Applicant has been forged on three of the vouchers which are at page Nos. 85 to 87. He submits that no gold as alleged is demanded by the Applicant from the Complainant.

4. Learned APP opposes the Application. He submits that all the accused together have misappropriated gold given by the Complainant to the tune of approximately 20 kgs, out of which the Applicant has misappropriated gold, around 8 kgs. He further submits that there is CCTV footage which clearly shows that the Applicant had gone to the Complainant's shop and has signed the receipts which are at page Nos. 85 to 87 which is now alleged by the learned counsel for the Applicant, to be forged. He submits that the CCTV footage clearly

shows the Applicant's presence in the office.

5. Perused the papers. According to the Complainant – Rakesh Ravindra Samanta, he is in the business of gold and is running a firm by the name “Samrajya Gold” at Kalbadevi, Mumbai. According to the Complainant, the work of the said firm is to accept gold and as per the orders, take gold bars from persons and send it to the shop of accused No. 3 – Anil Maji, to Orissa for making jewellery and thereafter, the said jewellery would be sent to the Complainant. According to the prosecution, co-accused – Anil Maji and Prabir Maity helped the Complainant in the said business. Anil Maji is a resident of West Bengal and his work was to prepare gold ornaments. His firm's name was “Anil Maji Manufacturer”. According to the prosecution, during the period 05.02.2019 to 20.02.2019, the Complainant gave about 20 kgs gold to Anil Maji for making ornaments. The said order was completed by Anil Maji. On 25.02.2019, the Complainant received an order of around 4 and ½ kg of gold from a Hong Kong based Company for making ornaments. According to the prosecution, Anil Maji told his colleague i. e. the Applicant to receive the gold from the Complainant. Accordingly, gold of 3513.750 gms was given to the Applicant by the Complainant, after obtaining the Applicant's signature

on vouchers, which are on page Nos. 85 to 87. Again at the behest of Anil Maji, the Complainant gave another 2700 gms pure gold to the Applicant. However, neither the Applicant nor the co-accused returned the gold ornaments as per the order given by the Complainant and misappropriated the said gold. As far as the Applicant is concerned, there is CCTV footage to show that the Applicant had gone to the shop of the Complainant and accepted the gold on behalf of accused No. 3 and had signed the vouchers.

6. Considering the aforesaid, custodial interrogation of the Applicant is necessary to unearth the scam and find out the modus operandi of the accused. Accordingly, the Application stands rejected. If an Application for regular bail is preferred by the Applicant, learned Judge to consider the same on its own merits uninfluenced by the observations made in this order.

7. In view of disposal of the Anticipatory Bail Application, the Intervention Application, being Cri. Appln. No. 1147 of 2019 does not survive and the same stands disposed of accordingly.

(REVATI MOHITE DERE, J.)