

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

ANTICIPATORY BAIL APPLICATION NO. 1798 OF 2019

Archana Shah	...Applicant
Vs.	
State of Maharashtra	...Respondent

- Mr. Fauzan Shaikh alongwith Mr. Abhishek Upadhye, Advocate for the Applicant.
- Mr. S.H. Yadav, APP for the State.
- Mr. D.R. Gabhale, HC-9432, Swargate Police Station, Pune, City.

CORAM : SARANG V. KOTWAL, J.
DATE : 19th AUGUST, 2019

P.C. :

1. The applicant is seeking anticipatory bail in connection with CR No. 325/19 registered at Swargate Police Station, Pune for the offences punishable under Section 380 of the IPC on 5th July 2019.
2. The FIR is lodged by one Pramod Shah. The informant was having a shop by name Patanjali Mega Store at Gultekadi. In November and December 2017, the informant came to know that there were some incidents of theft in his shop. They verified the CCTV footages. They found that on 9th December 2017 a lady had come to their shop with her young son. She had picked up some

articles and had concealed them in her jacket. According to the informant, on 5th January 2018, same lady again visited the shop and tried to steal articles. She was detained. Police were called.

3. It is the case of the informant that the lady gave her name as Dhanashri Patil, which turned out to be a false name. She had given in writing that she had taken away those articles and she begged for pardon. It is the case of the informant that on humanitarian ground, she was allowed to go and no further action was taken. On further inquiry, it was found that the mobile number was not in her name. The lady had given a false name. In reality she was none other than the present applicant. The applicant is working in reputed software company in Pune. The informant further mentioned that he was a cancer patient. He did not lodge FIR immediately and it was lodged only on 5th July 2019.

4. Heard, Mr. Shaikh, learned counsel for the applicant and Mr. Yadav, learned APP for the State.

5. Learned counsel for the applicant submitted that the FIR against the applicant is motivated. The applicant's husband is informant's friend and he has instigated the informant to lodge this

FIR. He further submitted that the applicant herself had lodged an FIR vide CR No. 237/19 on 28th April 2019 at Swargate Police Station under Sections 498A, 323, 504, 506 read with section 34 of the IPC. In that FIR apart from her harassment at the hands of the husband, she has also referred to this incident of alleged theft. She has stated in her FIR that in the year 2018, in the month of January, she had purchased some articles from the informant's shop. At that time, cashier at the counter alleged that she had not paid bills on the last occasion. The applicant, voluntarily paid the bill immediately. It is her case that she had paid Rupees One Thousand. The applicant in her FIR has further mentioned that the informant Pramod Shah told this fact to her husband, which became a tool in the hands of the applicant's husband to cause harassment. It is mentioned in her FIR that the husband took advantage of the situation and pressurized her to give divorce by mutual consent. On these basis, she has lodged this FIR.

6. Learned counsel for the applicant, therefore, submitted that husband of the applicant is tried to instigate her and therefore, custodial interrogation of the applicant is not necessary.

7. Learned APP submitted that the informant has CCTV footages of the theft and the investigation officer is in possession of such footages. He therefore, submitted that offence is clearly established and therefore, she does not deserve protection of anticipatory bail.

8. I have considered these submissions. The alleged incident had taken place in December 2017. The FIR itself shows that the first informant had pardoned the applicant and had not taken any action. The applicant was made to execute it in writing. Whether such pressurising tactics is justified or not, is a separate question. However, assuming that the applicant has not paid the bill of the articles, which she had taken, her FIR shows that she had infact made payment of Rupees One Thousand. If at all, the allegations pertains to a petty offence for which according to the applicant, she has already paid Rupees One Thousand. The applicant is working in a reputed software company. Her custodial interrogation will ruin her future. He had a son about 13 years age, who is residing with her. She is facing matrimonial dispute. She had lodged her FIR in April 2019. Thereafter, the present FIR

is lodged by her in the month of April 2019. The FIR itself mentioned that at the first incident, the informant had decided not to take any action against the applicant.

9. In this view of the matter, custodial interrogation of the applicant is not necessary. The applicant of course will have to co-operate with the investigation and will have to attend the police station as and when called. In this view of the matter, following order is passed:-

ORDER

- (I) In the event of his arrest in connection with C.R. No. 325/19 registered at Swargate 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) The Applicant shall attend the concerned Police Station as and when called and shall co-operate with the investigation.
- (iii) Application stands disposed of accordingly.

(SARANG V. KOTWAL, J.)