

Dond

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

ANTICIPATORY BAIL APPLICATION NO.1755 OF 2018

Vikram Amrutlal Bafna

..Applicant

Vs

The State of Maharashtra

..Respondents

Mr. S.V. Marwadi i/b Vishal Saxena for Applicant.

Mr. R.M. Pethe, APP for the State.

Ms. Priyanka Dubey for the Intervener.

Mr. Ranjit Chavan, API, Kasturba Marg Police Station present.

CORAM : A.S.GADKARI, J.

DATE : 2nd April 2019.

P.C.:

1] Heard Mr. Marwadi the learned counsel for the applicant, the learned counsel for the Intervener and the learned APP for the State. Perused the record of investigation.

2] By an Order dated 4th September 2018, the applicant was granted interim relief.

3] The prosecution case in brief is that, the applicant was working at a firm known as 'Hemant Gold' owned by Shri Hemant Modi. The applicant was working in the office of the said Company and his duty was to accept the delivery of the gold ornaments and to transport it and/or send

it to Sales Office and/or deliver it to the customers. It was also the obligation of the applicant to accept the payments received from the customers and deposit it with the Company. He was working in the said company for about two years. In the month of July 2018 when the stock register was verified, it was revealed that, there is deficit of gold of about 11 Kg. (11,039.080 grams). When the ledger books of the Company were verified, it was revealed that the applicant had on 18.5.2018 and 5.6.2018 accepted the said gold ornaments weighing 11,039.080 grams by executing two Challans bearing Nos.10 and 15 in that behalf.

It was further revealed that, the applicant neither delivered the said gold received by him which he was obliged to do to Neptune Gold nor deposited the value of the said gold in the office of the Company. It was alleged that, the applicant by accepting the aforestated quantity of gold ornaments from Hemant Gold, committed defalcation of the same which was approximately amounting to Rs.3,15,00,000/- (Rupees Three Crores and Fifteen Lakhs).

4] Mr. Marwadi, the learned counsel for the applicant submitted that, the applicant has no role to pay in the present crime and he has been falsely implicated in the present crime. He therefore prayed that, the

applicant may be protected by pre-arrest bail by allowing the present application.

5] It is to be noted here that, on an earlier occasion Shri Marwadi the lerned counsel for the applicant had made a request to call for the record of the Computer of the said Company i.e. Hemant Gold, as he was contending that there was no record from which it can even remotely infer that, the applicant had accepted the said gold ornaments. Accordingly, today the Investigating Officer has produced before me the gist of record seized from M/s Hemant Gold along with relevant entries therein. After perusing the same, it clearly indicates that, it is the applicant only who has accepted the gold ornaments on the aforestated dates mentioned hereinabvoe.

6] The record of investigation further indicates that, after accepting the delivery from Hemant Gold for its onward transmission to Neptune Gold, the applicant in the interregnum has committed defalcation of the said gold ornaments and did not deposit the value of the said gold ornaments with the company. There is more than sufficient material available on record to indicate that, the applicant has played vital role and is the sole perpetrator of the present crime. It also prima facie appears that,

the applicant by exploiting the loopholes in the functioning or system of the said Hemant Gold has committed the present crime.

The said defalcated gold ornaments are yet to be recovered by the police and without there being thorough interrogation of the applicant the same cannot be effected

7] In view of the above and after taking into consideration the gravity of the offence and serioius allegations against the applicant, this Court is of the opinion that, the applicant does not deserve to be protected by pre-arrest bail.

Application is accordingly rejected.

8] At this stage, Shri Marwadi, the learned counsel for the applicant submitted that, the applicant intends to challenge the present Order before the Honourable Supreme Court and submitted that, the interim relief granted by Order dated 4th September 2018 may be continued for a period of three weeks from today.

In view thereof, the interim relief granted by Order dated 4th September 2018 shall remain in force for a period of three weeks from today.

(A.S.GADKARI, J.)