

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD**

902 ANTICIPATORY BAIL APPLICATION NO.261 OF 2020

TASLIM BEGUM QURESHI W/O. TAYYAB QURESHI
VERSUS
THE STATE OF MAHARASHTRA

...
Advocate for Applicant : Mr. Kulkarni Suvidh S.
APP for Respondents/State : Mr. K.D. Mundhe
...

CORAM : M.G. SEWLIKAR, J.
DATE : 18.12.2020

PC.:-

This is an application under Section 438 of the Cr.P.C. for releasing the applicant on anticipatory bail.

2. The allegations against the applicant are that she is the first wife of the informant-Tayyab Qureshi. As per the prosecution case the applicant, at the time of the incident was staying in the flat at Lota Karanja, Aurangabad which is owned by the informant. The informant was arrested on account of the FIR lodged by the applicant. The informant was released on bail on 19.10.2019. Since he was in need of money, he visited the house (in which the applicant was living) at Lota Karanja. At that time his younger son-Shahid was at home. He inquired with him about the applicant. On opening the cupboard, the informant noticed that cash of Rs.45,000/-, golden chain of

Rs.75,000/-, a wrist watch of Titan company worth Rs.3,000/-, mobile handset of Oppo company worth Rs.10,000/- and a cheque book containing blank leaves was missing. The applicant suspected that the applicant committed theft of these articles. Therefore, he lodged the FIR on 29.10.2019 on the basis of which offence punishable under Section 380, 406 of the I.P.C. came to be registered against the applicant.

3. Heard Shri Suvidh Kulkarni learned counsel for the applicant and Shri K.D. Mundhe learned APP for the State.

4. Shri Kulkarni submitted that the said flat is in possession of the applicant and the applicant has been staying there since long. He further submitted that the applicant is the first wife of the informant and the applicant had lodged the FIR against the informant alleging that the informant had administered her some poisonous substance for which the informant was arrested. To wreck vengeance, this FIR has been filed. The applicant was lawfully in possession of these articles.

5. Shri Mundhe vehemently opposed this application contending that the informant had also filed FIR against the applicant making allegations about administration of poisonous substance to the informant. The applicant was also arrested. She was also released on bail. He submitted that the

informant had kept his cheque book and cash of Rs.45,000/- and mobile handset of Oppo company in the cupboard. These articles were removed by the applicant without the consent of the informant. Therefore, offence is clearly made out and custodial interrogation of the applicant is necessary.

6. On perusal of the FIR, it is seen that the applicant is the first wife of the informant. Their relations are strained. Each of them has made allegations of administration of poisonous substance against the other. It further appears from the allegations made in the FIR that the applicant was in possession of flat at Lota Karanja from where the alleged theft is committed. *Prima face*, it appears that the applicant was in lawful possession of the flat. She was in possession of the ornaments. The informant has not alleged that these ornaments and other articles belong to him. It is not the case of the prosecution that even at this stage the cheques have been misused by the applicant and she withdrew the amount from the account of the informant. In this view of the matter, no custodial interrogation of the applicant seems to be necessary. Hence, I am inclined to confirm the interim anticipatory bail. The application is allowed. The interim anticipatory bail is confirmed on the same terms and conditions.

[M.G. SEWLIKAR, J.]