

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

CRIMINAL ANTICIPATORY BAIL APPLICATION NO.199 OF 2020

Ankit Kamalkishor Malhotra	Applicant
versus	
The State of Maharashtra	Respondent

Mr.Sachin Gite for applicant.
Mr.S.H.Yaav, APP, for State.

CORAM : PRAKASH D. NAIK, J.

DATE : 28th January 2020

PC :

1. This is an application for anticipatory bail in connection with CR No.722 of 2019 registered with Bhadrakali Police Station, Nashik for offences under Sections 392 r/w 34 of Indian Penal Code. The applicant is alleged to have committed offence u/s 211 of IPC.

2. The FIR was lodged on 28th August 2019 alleging that unknown person had snatched the ornaments from person of complainant on 28th August 2019. During the course of investigation the co-accused had allegedly disclosed that the property is being sold to the applicant. Thus, the applicant is being attributed the role of receiver of stolen property. The applicant had preferred application for anticipatory bail before Sessions Court which has been rejected.

3. The applicant contends that he need not be subjected to custody in connection with present FIR. The applicant was arrested in CR No.326 of 2019 registered with Sarkarwada Police Station on 22nd November 2019. It is contended that the applicant was

granted bail in the said FIR by order dated 2nd December 2019. It is further contended that three other FIRs were registered vide CR No.613 of 2019 with Panchawati Police Station, CR No.363 of 2019 registered with Sarkarwada Police Station and present FIR vide CR No.722 of 2019 on 28th August 2019. It is submitted that the applicant was in custody in connection with CR No.326 of 2019, however, no recovery of stolen property was effected. The reply filed by prosecution would indicate that the statement made by the co-accused that the stolen property was sold to the applicant, was in all the four cases.

4. Learned APP submitted that the property involved in the present FIR is required to be recovered. Although he was in custody in connection with CR No.326 of 2019, nothing was recovered from him. The accused were involved in robbery of gold ornaments. Four cases were registered against applicant.

5. The FIR in the present case was registered on 28th August 2019. The accused no.1 Sarfaraz Ali Jakir Firoz was arrested in the present case as well as in all three cases. He is listed as accused no.1 in all the cases. CR No.326 of 2019 was registered in first point of time. The applicant was arrested on 22nd February 2019 in the said case. Three other cases including the present FIR was registered on 28th August 2019. The applicant was granted bail in CR No.326 of 2019 and 6th March 2019 vide order dated 2nd December 2019 and 4th December 2019. Thus, it is apparent that while three other FIRs were registered against the applicant including the present, the applicant was in custody in CR No.326 of 2019. While granting bail in the arrested FIR the Court has observed that in spite of being in

custody, nothing is recovered from him. In the reply filed by the prosecution opposing grant of anticipatory bail, report in CR No.326 of 2019 registered with Sarkarwada Police Station stated that accused no.1 is involved in all the four cases and that he had stated that the stolen case in all the cases were sold to the applicant. In spite of being in custody nothing is recovered from the applicant. Hence, the applicant can be granted protection in the present FIR.

6. Hence, I pass following order :

ORDER

- (i) Criminal Anticipatory Bail Application No.199 of 2020 is allowed and disposed of;
- (ii) In the event of arrest of applicant in connection with CR No.722 of 2019 registered with Bhadrakali Police Station, Nashik, the applicant be released on bail on furnishing PR bond in the sum of Rs.25,000/- with one or more sureties in the like amount;
- (iii) The applicant shall report the Investigating Officer on 4th, 6th and 6th February 2020 between 10 am and 12 noon and thereafter as and when called for till filing of charge sheet;
- (iv) The applicant shall not tamper with evidence.

(PRAKASH D. NAIK, J.)

MST