

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

**1 ANTICIPATORY BAIL APPLICATION NO.476 OF 2021
WITH APPLN/2626/2021 IN ABA/476/2021**

**JAYSHRI W/O. RAJKUMAR GULANGE
VERSUS
THE STATE OF MAHARASHTRA**

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Mr. P.P.More, Counsel for applicant

Mr. A.S.Shinde, APP for respondent-State

Mr. Ram S.Shinde, Counsel for complainant (assist to APP)

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CORAM : PRAKASH D. NAIK, J.

DATE : 06th DECEMBER, 2021

PER COURT:

1] This is an application for anticipatory bail in Crime No.0062 of 2021 registered with Udgir Rural Police Station, Dist.Latur for the offences punishable under Sections 420, 422, 424, 405, 406, 409, 468 and 120(B) read with 34 of Indian Penal Code (for short, 'IPC'). The First Information Report (for short, 'FIR') was registered on 11.02.2021.

2] The complainant had filed a private complaint and seeking directions to the concerned Police Station for investigation vide Section 156(3) of Code of Criminal Procedure (for short, 'Cr.PC.'). In the said complaint, directions were issued on 27th September, 2017. It appears that the FIR was not registered on the ground that similar FIR was registered. The complainant thereafter preferred an application before the Court, seeking directions to register FIR in view of the order dated

27th September, 2017. In pursuant to that, the concerned Court vide order dated 31st December, 2020 directed the Station In-charge Police Station, Udgir (Rural) to comply the directions for registration of crime and investigation in accordance with order passed by the said Court on 27th September, 2017. It is in these circumstances, the FIR was registered thereafter, on 11th February, 2021.

3] The case of the complainant is that he is a trader. The applicant (accused no.2) is the proprietress of Omkar Warehouse. The husband of the applicant (accused no.1) is the owner of the godown/warehouse. The accused No.3 is working for accused Nos.1 and 2 as *Munim*. The complainant is dealing in sale and purchase of grocery. He had purchased grocery. On 12.08.2016 and 07.09.2016, the grocery were kept in warehouse. The applicant had allegedly signed the receipts on acceptance of the delivery of the grocery. The complainant was in need of loan and thus, the goods kept in the warehouse were submitted as a security for the loan of Rs.45 lakhs with the bank. The accused were aware about it. On 07.01.2017, the complainant visited the warehouse to verify the goods and it was found that the goods were sold to third party. The bank did not initiate any action. The accused had agreed to compensate the loss. However, the promise was not fulfilled. The complainant then forwarded a complaint to the police on 13th October,

2017. No action was initiated by the police and hence, he filed a private complaint and sought direction under Section 156(3) of Cr.P.C.

4] Learned counsel for the applicant submitted that the transactions are of 2016 – 2017. Applicant is the house wife. She is not involved in sale of the goods delivered by the complainant. Power of attorney was executed in favour of her husband and he was looking after the day-to-day affairs of the godwon. The husband of the applicant is in custody since 2020. The entire matter relates to documentary evidence. Custodial interrogation of the applicant is not necessary. Applicant is illiterate lady. She has studied up to 7th standard. She acted at the instances of her husband. There is no evidence that the applicant has played any role in misappropriation of the goods belonging to the complainant. The husband is already in custody.

5] Learned APP submitted that the complainant had delivered the goods, which was acknowledged by issuing the receipts. The said receipts bear the signature of the applicant. There is evidence to show the involvement of the applicant in the crime. The husband of applicant is arrested in another crime and not in the present crime.

6] Learned counsel for the complainant submitted that the applicant has acted in connivance with accused No.1. The applicant is the proprietor of the warehouse. Her husband is the owner of the warehouse.

There is documentary evidence to show the involvement of the applicant. She is involved in several cases. Custodial interrogation of the applicant is necessary.

7] In rejoinder, learned counsel for the applicant has submitted that the submission of the learned counsel for the complainant about the involvement in several case is incorrect. She is involved in one case, registered with Udgir Police Station vide Crime No.107 of 2017 for the offences under Sections 379, 420, 422, 424, 404, 406, 409, 468 and 120(B) read with 34 of IPC. The applicant was arrested and granted bail by the learned Additional Sessions Judge, Udgir vide order dated 30.11.2017.

8] From the documents on record and the investigation papers, it is apparent that the transactions were of 2016. The complainant had allegedly delivered the goods for safe custody in the warehouse of the accused. The applicant is the proprietress of the warehouse and her husband is the owner of the warehouse. The husband of the applicant is in custody since 2020. Undisputedly, he is in jail for similar offence from 2020. It is Not to not clear why he has not been arrested in the present case. The complainant had allegedly relied upon certain documents, such as receipts of delivery of the goods. The claim of the applicant is that her husband was looking after the day-to-day affairs and power of attorney in that regard is executed in her favour. Although the complaint were filed

in the year 2017 and directions were issued by the concerned Court for investigation, it appears the FIR was not registered by the police. Subsequently, in the year 2020, the learned JMFC has directed registration of FIR. The transactions are old. The investigation is in progress. The applicant is a lady. Her husband is already in custody. Taking into these circumstances, custodial interrogation of the applicant need not be subjected. Hence, I pass the following order.

ORDER

- (i) Anticipatory Bail Application No.476 of 2021 is allowed and disposed of.
- (ii) In the event of arrest of applicant in connection with Crime No.0062 of 2021 registered with Udgir Rural Police Station, Dist.Latur, the applicant be released on bail on executing PR.Bond in the sum of Rs.25,000/- with one or two sureties in the like amount.
- (iii) Applicant shall report Investigating Officer on 09th, 10th and 11th December, 2021 at 11.00 am to 01.00 pm and thereafter, as and when called for, till filing of charge-sheet.
- (iv) Criminal Application No.2626 of 2021 stands disposed of.

(PRAKASH D. NAIK, J.)