

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

ANTICIPATORY BAIL APPLICATION NO. 2184 OF 2021

Alok Uday Chauhan ... Applicant

Versus

The State of Maharashtra ... Respondent

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Mr. Amresh B. Sharma a/w Mr. Suresh Chavan, Advocate for the Applicant.

Mr. S. R. Agarkar, APP for the Respondent – State.

Mr. Rajendra Toradmal (API) Kapurbawadi Police Station, Present.

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CORAM : PRAKASH D. NAIK, J.

DATE : 20th SEPTEMBER, 2021

PER COURT:

1. The applicant is apprehending arrest in C.R. No. I-198 of 2021 registered with Kapurbawadi Police Station, Thane for offences under Sections 454, 457, 380, 427, 436 r/w Section 34 of Indian Penal Code (for short “IPC”).

2. The First Information Report (for short ‘FIR’) was registered on 27th June, 2021. It is alleged by the complainant that from 24th June, 2021 to 27th June, 2021 while the complainant was not in the house some unknown persons had entered into her premises by breaking the door and committed

theft of cash and ornaments from the iron cupboard lying in the premises. The articles in the house were set on fire. The value of the articles and the cash stolen by the accused was around Rs.2,00,000/-. The FIR was registered against unknown persons.

3. Subsequently, on the basis of C.C.T.V. footage it was suspected that the applicants were involved in the crime and they were sought to be arrested. Hence, the applicants preferred an application before the Sessions Court. The co-accused was arrested and granted bail. On completing investigation, charge-sheet was filed against him.

4. Learned counsel for the applicant submitted that the applicant is being falsely implicated in this case. The brother of the applicant had lodged the complaint against husband of first informant. The applicants are residing in the same building where the complainant resides. The flat of the complainant is situated between the flats of the applicant and co-accused. The charge-sheet filed against the arrested accused does not indicate any cogent evidence to show the involvement of the accused. There is no eye witness to the incident. Spot panchanama does not support the version of the complainant.

5. Learned APP submitted that the investigation is in progress. Statement of witnesses are being recorded. C.C.T.V. footage shows that the applicant and the co-accused were moving suspiciously in the area of the building, where the incident had occurred.

6. The case of the complainant is that she was not in the house and the neighbour informed her about the fact that the door of the flat is open and there is incident of fire inside the flat. The FIR was registered against unknown person alleging trespass, theft and mischief. The co-accused was arrested and granted bail. Charge-sheet is filed. There was no recovery from him. The spot panchanama which is part of charge-sheet does not reflected that there was any incident of fire. The spot panchnama also does not indicate that cupboard from which the articles were stolen was tampered by the accused. Merely on the ground that the applicant was found in the vicinity of the building, it cannot be presumed that he has committed the offence. He is resident of same building. There is no eye witness to the incident. Considering these aspects the applicant need not be subjected to custodial interrogation.

7. Hence, I pass the following order:

ORDER

- (i) Anticipatory Bail Application No.2184 of 2021 is allowed;
- (ii) In the event of arrest of the applicant in connection with C.R. No. I-198 of 2021 registered with Kapurbawadi Police Station, Thane, the applicant be released on bail on furnishing P. R. Bond in the sum of Rs.25,000/- with one or more sureties in the like amount;
- (iii) The applicant shall attend the investigating officer on 27th, 28th & 29th September, 2021 between 11.00 a.m. to 1.00 noon and thereafter as and when called for.
- (iv) Anticipatory Bail Application stands disposed of accordingly.

(PRAKASH D. NAIK, J.)