

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

ANTICIPATORY BAIL APPLICATION NO.2198 OF 2021

Atharva Atul Gujare and others

Applicant

versus

The State of Maharashtra

Respondent

Mr.Shrikant S. Rathi, Advocate, for applicant.

Mr.S.R.Agarkar, APP, for State.

API Jadhav, Shahapur Police Station, Thane Rural, present.

CORAM : PRAKASH D. NAIK, J.

DATE : 9th September 2021

PC :

1. This is an application for anticipatory bail in CR No.307 of 2021 registered with Shahpur Police Station for offences under Section 380 r/w 34 of Indian Penal Code. The FIR was registered on 20th July 2021.

2. The complainant has alleged that his relative has passed away on 19th May 2021 and several relatives had attended the funeral. Thereafter the accused had visited his house for taking bath. While they were changing clothes the complainant noticed that door of cupboard was open. On 23rd May 2019 when he opened the cupboard for taking out gold ornaments from the cupboard, he found that the ornaments were missing. He made enquiries with his wife and other family members. No other person had entered into the house of complainant. Several ornaments the details of which are reflected in the FIR, were missing. They suspected that the applicants have committed theft of the said ornaments. To give an

opportunity to the applicants, meetings were held in presence of relatives by requesting them to return the ornaments. However, in spite of attempts to reconcile the dispute, the ornaments were not returned. Hence, the FIR was lodged with police station.

3. Learned advocate for applicants submitted that the FIR is false. The applicants are not involved in the offence. The applicants are boys aged about 19, 22 and 19 years respectively. All of them are students. Their arrest would cause irreparable damage to their image and career. Merely on the basis of suspicion of the complainant, the applicants cannot be subjected to custodial interrogation. The FIR was lodged belatedly. In the past two complaints were registered against first informant. CR No.40 of 2016 was registered with Shahpur Police Station for offences under Sections 353, 504 and 506 of IPC by one close relative of applicants. The first informant is also the relative of applicants. One more FIR was registered against informant vide CR No.230 of 2020 with the same police station for offences under Sections 353, 504, 506 of IPC for abusing and threatening public servant and restricting them in discharge of duty.

4. Learned APP submitted that complainant has alleged that the applicants were in house on the date of incident. The ornaments were missing from the cupboard of complainant. Several opportunities were given to the applicants to return the ornaments and as a matter of last resort the FIR was registered. Prior to registration of FIR the complainant had forwarded written complaints to Shahpur Police Station and Sub Divisional Police Officer on 27th May 2021 and 2nd July 2021. The complaint dated

27th May 2021 states that door of bed room was closed when the informants had entered into the house. In spite of knocking the door, the applicants did not open the same. Thereafter he noticed that cupboard was open. Custodial interrogation of the applicants is necessary to recover gold ornaments stolen by the applicants.

5. The averments in the complaint referred to by learned APP that door of bed room was closed from inside and the accused did not open the same, is not reflected in the FIR. The ornaments were suspected to have been stolen on 19th May 2021. Thereafter the complainant has allegedly forwarded written complaints and the FIR was registered on 20th July 2021. The applicants are boys. They are students. There are no criminal antecedents. Merely on suspicion and in the absence of any cogent material, the applicants cannot be subjected to custodial interrogation. Hence, I pass following order :

ORDER

- (i) Anticipatory Bail Application is allowed and disposed of;
- (ii) In the event of arrest of applicants in CR No. 307 of 2021 registered with Shahpur Police Station, the applicants be released on bail on their executing PR bond in the sum of Rs.20,000/- each with one or more sureties in the like amount;
- (iii) The applicants shall appear before Investigating Officer on 14th, 15th and 16th September 2021 between 11 am and 1 pm.

(PRAKASH D. NAIK, J.)