

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

ANTICIPATORY BAIL APPLICATION NO.2021 OF 2019

Mehraj Samsuddin Shaikh

...Applicant

V/s.

The State of Maharashtra

...Respondent

Mr. Bharat B. Gavande, Advocate for Applicant.

Mrs. M. H. Mhatre, APP for Respondent (State).

CORAM : A. S. GADKARI, J.

DATE : 21st AUGUST, 2021.

PC.:

1. Heard Mr. Gavande, learned counsel for the Applicant and Mrs. Mhatre, learned APP for the Respondent (State). Perused record.
2. Perusal of First Information Report itself indicates that, the Applicant was apprehended at the scene of offence itself and was assaulted by the mob who had gathered there after hearing a call for help by the first informant. The Applicant was thereafter taken to Kashimira Police Station, Thane by the informant and other persons. If the fact mentioned in the First Information Report is true and correct then it is surprising that, the articles which were allegedly stolen by the Applicant were not found on his person though the informant has stated that, the valuables mentioned in the First Information Report are missing from his

house. It is further surprising to note that, even after the custody of the Applicant was handed over to the Police, how the Applicant escaped from the Police custody to file an Application for pre-arrest bail in the present crime. All these questions are not answered by the Investigating Agency.

3. The prosecution is seeking custody of the Applicant mainly for the purpose of recovery of the alleged stolen articles by the Applicant. As noted earlier, the Applicant was apprehended at the scene of offence and nothing was found on his person at the Police Station.

4. In view thereof, the custodial interrogation of the Applicant is not necessary and the Applicant can be protected by pre-arrest bail.

Interim relief granted by Order dated 26th September 2019, is hereby confirmed. However, the condition to attend Investigating Officer of the concerned Police Station is waived.

5. Application is allowed in the aforesaid terms.

(A. S. GADKARI, J.)