

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

910 ANTICIPATORY BAIL APPLICATION NO.79 OF 2022

SHAKER KHAN S/O SHER KHAN

VERSUS

THE STATE OF MAHARASHTRA

...

Mr. A.C. Deshpande, Advocate for the applicant

Mrs. V.N. Patil-Jadhav, APP for the respondent

...

CORAM : SMT. VIBHA KANKANWADI, J.

DATE : 20th JANUARY, 2022

ORDER :

1 Applicant is apprehending his arrest in connection with Crime No.385/2021 dated 05.11.2021 registered with Bidkin Police Station, Dist. Aurangabad, for the offence punishable under Section 380, 461 of the Indian Penal Code, 1860.

2 Heard learned Advocate Mr. A.C. Deshpande for the applicant and learned APP Mrs. V.N. Patil-Jadhav for the respondent.

3 It has been submitted on behalf of the applicant that First Information Report has been lodged by one Sandip Ramanna Maheshwari, who is the proprietor of Sankalp Enterprises. He was informed by his

Supervisor that there is theft in their company. He could find that cables and terminals worth Rs.1,50,000/- have been seized by some unknown persons and, therefore, the offence came to be registered against unknown person. The remand report would show that the person, who was arrested, was one Izhar @ Kallu Ikbali Shaikh. Nothing has been seized from him and from his interrogation it was submitted that name of the present applicant was revealed, as he is one of the persons to whom stolen articles have been sold and, therefore, Section 411 of the Indian Penal Code has been added, but the applicant who is running a scrap centre under the name "Rahin Scrap Centre" has not purchased any material. There is nothing with the police to connect the present applicant with the crime and, therefore, his custodial interrogation is not necessary.

4 Per contra, the learned APP submitted that accused No.1 has disclosed it to the police that he sold the stolen articles to the present applicant. He has also stated that three persons were helping him in the commission of the crime and, therefore, all those persons are required to be arrested. Nothing has been seized from the person, who has been arrested. Investigation is still pending. The articles which have been stolen are heavy and bulky. The act could not have been done by one person and, therefore, this may not be the fit case to exercise the extraordinary powers.

5 At the costs of repetition, it can be said that the First Information Report, that has been lodged by Sandip Ramanna Maheshwar, is against unknown person. But it states that the material that has been stolen is worth Rs.1,50,000/- and it is in the nature of cables and terminals. Definitely, it cannot be the work of single person. The stolen articles are definitely required to be recovered and it can be possible only after the physical custody of those persons involved in the crime is given to the police. The offence was against the unknown person. After the disclosure of one accused the link with the other accused can be established. Under such circumstance, this cannot be the fit case, when the investigation is still in progress, to exercise the extraordinary powers of this Court to grant relief to the applicant. Application stands rejected.

(Smt. Vibha Kankanwadi, J.)

agd