

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

**ANTICIPATORY BAIL APPLICATION NO.1073 OF 2022
WITH
INTERIM APPLICATION NO.1391 OF 2022
IN
ANTICIPATORY BAIL APPLICATION NO.1073 OF 2022**

Pankaj Parasnath Soni

...Applicant

Versus

The State of Maharashtra

...Respondent

....

Mr. Vivek R. Walavalkar i/b. Ms Archana Singh for the Applicant.

Mr. N.B. Patil, APP for Respondent-State.

CORAM : SMT. ANUJA PRABHUDESSAI, J.

DATED: 2nd MAY, 2022.

P.C.:-

1. This is an application under Section 438 of Cr.PC. for pre-arrest bail in C.R. No.422 of 2021, Padgha Police Station, District-Thane, for offences punishable under Section 406 and 407 r/w. 34 of the IPC.

2. Heard Mr. Vivek Walavalkar, learned counsel for the Applicant and Mr. N.B. Patil, learned APP for Respondent -State. I have perused the records and considered the submissions advanced by the learned counsel for the respective parties.

3. The aforesaid crime was registered pursuant to the FIR lodged by Rajneesh Kaushik, Manager of M/s. Kintetsu World Express (India) Pvt. Ltd. Shri Kalki Warehousing E-03, having office at Dhamangaon, Bhiwandi, District-Thane. The company is involved in transport business. It is stated that some sealed boxes containing Apple i-phones were to be delivered from Bhiwandi to M/s. Infinity Retail Ltd., Delhi. It is alleged that during the period from 06/08/2021 to 27/09/2021 about 50 pieces of i-phone worth Rs.34,10,726/- were not delivered to M/s. Infinity Retail Ltd. Hence, the FIR came to be lodged against an unknown person.

4. In the course of the investigation, it was revealed that the driver and his wife Ishrat Bano were involved in committing theft of the said phones. It is alleged that the Applicant herein was in contact with the co-accused-Ishrat Bano. He had purchased 24 stolen mobile phones from Isharat Bano. Out of the said 24 phones, he had sold 20 phones to the co-accused Sohail.

5. The records prima facie indicate that said Sohail has transferred money in the account of the Applicant. Statement of another witness also indicates that he had purchased two i-phones from the

Applicant, IMEI numbers of said phones tally with IMEI number of the stolen i-phone. The contention that the Applicant was not aware that these phones were stolen, cannot be accepted for the reason that the Applicant had purchased 24 i-phones from Ishrat, who is neither a dealer nor a retailer and was not engaged in sale of mobile phones. He was not issued any bills in respect of the said phones. There is also no material to indicate that the Applicant had issued any bill to Sohail or any other purchaser. These facts prima facie indicate that the Applicant was aware that mobile phones were stolen. The records show the involvement of the Applicant in the aforesaid crime. The offence needs to be investigated. Role of the other persons involved in the crime needs to be ascertained. Hence this is not a fit case for pre-arrest bail. Hence, the application is dismissed.

6. In view of dismissal of the Anticipatory Bail Application, the interim application does not survive and hence stands disposed of.

(SMT. ANUJA PRABHUDESSAI, J.)