

Diksha Rane

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

ANTICIPATORY BAIL APPLICATION NO.3051 OF 2022

TUMPA HIRULA NASKAR ..APPLICANT
VS.
THE STATE OF MAHARASHTRA ..RESPONDENT

Mr. Ghanshyam Upadhaya a/w. Mr. Vijay Jha i/b. Law Juris
for the applicant.

Ms. A. A. Takalkar, APP for State.

Mr. Prathamesh Gaikwad for the complainant.

Mr. Sunil Salunkhe, PSI, Nayanagar Police Station.

CORAM : M. S. KARNIK, J.

DATE : DECEMBER 1, 2022.

P.C. :

- 1.** Heard learned counsel for the applicant, learned APP for the State and learned counsel for the complainant.
- 2.** This is an application for pre-arrest bail in connection with First Information Report (FIR) No.0569 of 2022 registered with Navghar Police Station for the offence punishable under Sections 406, 420 read with 34 of the Indian Penal Code, 1860.
- 3.** Learned counsel for the complainant opposed the application submitting that not only the applicant has

breached the trust of the complainant but also despite helping her on so many occasions has sold the gold ornaments which were kept by the complainant for the safe custody with the applicant. The complainant has filed FIR for the offence punishable under Section 406, 420 read with 34 of the Indian Penal Code. The complainant is seeking to recover the gold ornaments which according to her were kept in the safe custody of the applicant.

4. By an order dated September 3, 2022, the Sessions Court has allowed the application made by the husband of the applicant for pre-arrest bail, however, the application of the applicant was rejected.

5. The allegations in the FIR which was filed on August 2, 2022 are that the applicant and the complainant were good friends. The complainant trusted the applicant. On many occasions the applicant and her husband sought financial help from the complainant which she readily offered. In May 2018, a theft took place in the house of the complainant and therefore, for the sake of safe custody of the gold ornaments she thought that the applicant could be trusted.

The gold ornaments were worth of Rs.8,18,650/-. At present, according to the complainant its value is Rs.14 lakhs. Sometime in January, 2019, the applicant informed the complainant that she had pledged the gold ornaments for obtaining loan. She assured the complainant that the gold jewellery belonging to the complainant which is pledged will be released and the same would be handed over to the complainant. As the complainant came to know that the applicant had sold her gold jewellery including a gold biscuit which was handed over, the FIR came to be lodged.

6. Learned counsel for the complainant opposed the application. He submits that the gold ornaments have to be recovered and therefore, custody is necessary.

7. There is no receipt of handing over the gold ornaments by the complainant to the applicant. There is a delay in registering the FIR. This Court while granting interim protection to the applicant observed that prima facie there appears to be delay in lodging the FIR and overall conduct of the complainant is not natural and therefore,

protected the applicant in the meantime. It is pointed out that after the applicant's husband was granted pre-arrest bail by the Sessions Court, he had threatened the complainant and therefore, the N.C. has been registered against him with the concerned police station.

8. The parties are residing at Mira Road. Taking an overall view of the matter, in my opinion, the application could be allowed. The applicant's husband has already been granted pre-arrest bail by the Sessions Court. Hence the following order.

ORDER

(a) In the event of arrest in connection with First Information Report (FIR) No.0569 of 2022 registered with Navghar Police Station, the applicant-Tumpa Hirula Naskar shall be released on bail on furnishing P.R. bond of Rs.25,000/- with one or more sureties of the like amount.

(b) The applicant shall report to the concerned police station on 5th, 6th and 7th December, 2022, between 11.00 a.m. and 1.00 p.m. and thereafter as and when called for. In any case, the applicant to report the concerned police station once in a month on every Monday, between 11.00 a.m. and 1.00 p.m.

(c) The applicant shall not directly or indirectly make

any inducement, threat or promise to any person acquainted with facts of case so as to dissuade him from disclosing the facts to Court or any Police Officer and should not tamper with evidence.

(d) The applicant shall remove herself from the area of Mira Road and shall not reside in the vicinity where the complainant is residing in view of the allegations post releasing of the applicant's husband on bail.

9. The application is disposed of.

(M. S. KARNIK, J.)