

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

ANTICIPATORY BAIL APPLICATION NO. 67 OF 2023

Ms. Umera Salim Khan Applicant
v/s.
The State of Maharashtra Respondent

**WITH
INTERIM APPLICATION NO. 872 OF 2023
IN
ANTICIPATORY BAIL APPLICATION NO. 67 OF 2023**

Smt. Shahida Khatoon Jalil ... Intervenor

In the matter between :-

Ms. Umera Salim Khan Applicant
v/s.
The State of Maharashtra Respondent

Mr. Siddharth Jaiswal for the Applicant.
Ms. Anjali S. Jaiswal a/w. Mr. Shatrughan Dubey for the Intervenor.
Mr. S.V. Gavand, APP for the State.

CORAM: SMT. ANUJA PRABHUDESSAI, J.

DATED : 06th MARCH, 2023.

P. C. :-

. Interim Application No.872/2023 is not on board. Upon mentioning, taken on board.

2. This is an Application under section 438 of Cr.PC. filed by the aforesaid Applicant seeking pre-arrest bail in C.R.No.805/2022 registered with Goregaon Police Station, Mumbai for offences punishable under sections 380 of the Indian Penal Code.

3. Heard learned counsel for the Applicant, learned APP for the State and learned counsel for the Intervenor. I have perused the records and considered the submissions advanced by the learned counsel for the respective parties.

4. The aforesaid crime was registered pursuant to the FIR dated 19/07/2022 lodged by Smt. Shahida Khatun Jalil. The Complainant has alleged that on 18/12/2018, she and the mother of the Applicant had gone to Gujarat. On the same date, at about 02:00 p.m, the daughter of the complainant informed her on phone that the Applicant had come to her house. The complainant returned from Gujarat on 26/12/2018. On 02/01/2019, she learnt that one red box containing her jewelry was missing. She claims that her daughter had informed her that on 18/12/2018, at about 03:00 p.m., she had gone to the school to bring her daughter and that the Applicant herein had told her to keep the bag which contained the cupboard key. She has stated that the Applicant had also sent away the maid to make some purchases.

5. The Complainant claims that in March, 2019, her friend – Yasmeen told her that the Applicant had come to her house with a red

box containing gold ornaments and that she had agreed to sell the same for Rs.20,000/-. She had seen the name of 'Nargis Sameer' on one of the gold bracelets and that the Applicant had told Yasmeen that Nargis is her cousin and Sameer is her husband. Yasmeen told her that she refused to purchase the gold ornaments and to pay money to the Applicant. The Complainant suspected that the Applicant had opened the lock in the absence of her daughter – Nargis and stolen the gold ornaments from the cupboard.

6. Learned counsel for the Intervenor – Complainant states that the Complainant had already lodged a complaint on 22/03/2021 wherein she had narrated the incident. She has placed on record copy of the said complaint. The said complaint does not state that the witness – Yasmin had informed the Complainant that the Applicant had come to the office with a red box containing gold jewelry and that she had agreed to sell the same for Rs.20,000/-. The Complainant had lodged another complaint on 26/03/2021 which was registered as NC complaint. Even, in this complaint, there was no reference to the crime allegedly committed by the Applicant. It is also to be noted that though no crime was registered pursuant to the complaint dated 26/03/2021, the Complainant had not filed an application under section 156(3) of

Cr.P.C. but had lodged a fresh FIR wherein the complainant had given an entirely different story. The allegations in the subsequent FIR prima facie appear to be an afterthought. It is stated that the Applicant had reported to the Investigating Officer and that she has been interrogated. Learned APP concedes that no jewelry has been recovered from the Applicant.

7. Considering the above facts and circumstances, in my considered view, the case does not justify custodial interrogation. Hence, the Application is allowed on the following terms and conditions :-

(a) In the event of arrest of the Applicant in C.R.No.805/2022 registered with Goregaon Police Station, Mumbai, she shall be released on bail on furnishing bail bonds in the sum of Rs.25,000/- with one or two sureties in the like amount ;

(b) The Applicant shall report to the Investigating Officer as and when required by the Investigating Officer ;

(c) The Applicant shall not interfere with the complainant and the other witnesses and shall not tamper with the

evidence or attempt to influence or contact the complainant, witnesses or any person concerned with the case;

(d) The Applicant shall keep the Investigating Officer informed of her current address and mobile contact numbers, and/or change of residence or mobile details, if any, from time to time.

8. The Application stands disposed of. Interim Application No.872/2023 stands disposed of in view of disposal of the Anticipatory Bail Application.

PREETI
H
JAYANI

(SMT. ANUJA PRABHUDESSAI, J.)

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