

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

ANTICIPATORY BAIL APPLICATION NO.2050 OF 2023

Megha Jivan Rathore

...Applicant

Versus

The State of Maharashtra

...Respondent

...

Mr. Varun M. Pandey for the Applicant.

Mr. R.M. Pethe, APP for the Respondent -State.

Mr. Sandip Patil, API, Oshiwara Police Station, present.

CORAM: SMT. ANUJA PRABHUDESSAI, J.

DATED: 24th JULY, 2023.

P. C. :-

1. This is an application under Section 438 of the Cr.P.C. filed by the aforesaid Applicant apprehending her arrest in Crime No.66 of 2023 registered with Oshiwara Police Station, Mumbai, for the offences punishable under Section 380 of the IPC.

2. Heard Mr. Pandey, learned counsel for the Applicant and Mr. Pethe, learned APP for the 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 Reha Pathan. The facts narrated in the FIR prima facie reveal that the First Informant had allowed the Applicant and the co-accused to reside in her flat as paying guests. The First Informant claims that she had gone to Europe on 12/11/2022. On 08/01/2023 the Chairman of the Society phoned her and informed her that the Applicant and the other co-accused were taking away her household articles. The First Informant returned to India on 20/01/2023 and found that several items mentioned in the FIR worth Rs.5,76,000/- were missing. Hence, the FIR.

4. The FIR prima indicates that the Chairman of the Society had allegedly seen the Applicant and the co-accused taking away household articles from the flat of the First Informant. The Applicant has been implicated solely in view of the said information given by the Chairman. It is however to be noted that till date, the Investigating Officer has not recorded the statement of the Chairman. No justifiable reason has been offered by the Investigating Officer for not recording the statement of this material witness. Consequently, there is no prima facie material to indicate that the Applicant had in fact, committed theft of the articles.

5. Under the circumstances, this is a fit case to exercise

discretion under Section 438 of the Cr.P.C. Hence, the application is allowed on the following terms and conditions:-

- (i) In the event of arrest of the Applicant in Crime No.66 of 2023 registered with Oshiwara Police Station, Mumbai, she is ordered to be released on bail on executing PR bonds in the sum of Rs.30,000/- with one or two sureties to the like amount;
- (ii) The Applicant shall report to the concerned Investigating Officer for a period of two days i.e. on 27/07/2023 and 28/07/2023 between 11.00 a.m. to 2.00 p.m. and further as and when required by the Investigating Officer for the purpose of investigation;
- (iii) The Applicant shall not tamper with the prosecution evidence and or influence the witnesses in any manner;
- (iv) 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.

6. The application stands disposed of.

(SMT. ANUJA PRABHUDESSAI, J.)