

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

ANTICIPATORY BAIL APPLICATION NO.2150 OF 2023

Vikram Pukhraj Rathod

...Applicant

Versus

The State of Maharashtra

...Respondent

...

Mr. Amrish R. Salunke for the Applicant.

Mr. S.V. Gavand, APP for the Intervenor.

CORAM: SMT. ANUJA PRABHUDESSAI, J.

DATED : 4th AUGUST, 2023.

P. C. :-

1. This is an application under Section 438 of the Cr.P.C. filed by the aforesaid Applicant apprehending his arrest in C.R. No.258 of 2023 registered with L.T. Marg Police Station, Mumbai, for the offences punishable under Sections 402 and 420 of the IPC.

2. Heard Mr. Amrish R. Salunke, learned counsel for the Applicant and Mr. S.V. Gavand, 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

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lodged by Hastimal Mitthalal Jain, Sales Manager of M/s. Payal Gold Pvt. Ltd. The facts narrated in the FIR prima facie reveal that the Applicant herein was working in the said shop as a salesman. In the course of his duties, the Applicant used to collect gold ornaments and show them to different jewelers, who after confirming the design, place orders. It is stated that on 22/09/2022 the Applicant had taken gold bangles weighing 803.560 gm to show to the jewelers at Pune. The Applicant did not hand over the said bangles and avoided receiving calls and subsequently switched off his mobile. Hence, the complaint came to be lodged pursuant to which aforesaid crime has been registered.

4. The records reveal that though the complaint /FIR was in fact lodged on 20/12/2022, the FIR was registered on 14/04/2023. The Applicant had thereafter lodged a complaint before the Faraskhana Police Station, Pune alleging that he had handed over gold bar of 638 grams to Niranjana Baburao Solanki with request to handover the same to the First Informant. He had stated that said Niranjana Solanki failed to deliver the gold bar to M/s. Payal Gold. The Applicant does not dispute having received gold bangles from the First Informant. The complaint lodged by the Applicant as well as the statement of Niranjana

Solanki reveals that the Applicant had handed over gold bar weighing 638 gms to Niranjana Solanki. It is pertinent to note that as noted above, the Applicant was working as a salesman and his duty was only to take gold jewelry from M/s. Payal Gold Pvt. Ltd. and show it to different jewelers and take orders for making similar kind of jewelry. The First Informant or the owner of M/s Payal Gold had not authorised the Applicant to sell the said gold jewelry or to convert it into the gold bar. The fact that the Applicant had given a gold bar weighing 638 gms to Niranjana Solanki and further evaded receiving calls of the First Informant, prima facie indicate that the intention was to cheat since inception.

5. Considering the above facts and circumstances, the Applicant is not entitled for pre-arrest bail. Hence, the application is dismissed.

(SMT. ANUJA PRABHUDESSAI, J.)