

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

ANTICIPATORY BAIL APPLICATION NO.3316 OF 2023

Mohd. Rafiq Mohd. Islam Shah	...Applicant
vs.	
The State of Maharashtra	...Respondent

Mr. Ashley Cusher, for the Applicant
Mr. S.H. Yadav, APP, for the Respondent/State.

CORAM : N. J. JAMADAR, J.
DATE : DECEMBER 5, 2023

P.C.:

1. Heard the learned counsel for the applicant and the learned APP for the State.
2. This application is preferred seeking pre-arrest bail in connection with C.R. No. 513 of 2022 registered at Waliv police station for the offences punishable under sections 454, 457, 380 and 411 read with 34 of Indian penal Code, 1860.
3. The first informant lodged report of theft of the articles by breaking open his shop premises, against unknown persons. During the course of investigation, it transpired that the co-accused Rasulan Khatun @ Ruby Ansari and the applicant had committed the theft.
4. The learned counsel for the applicant submitted that the first information report was lodged against unknown persons.

Investigation is complete. The report submitted by the police before the Court of Session indicates that during the course of investigation, the investigating agency has recovered the entire stolen property.

5. The learned APP submitted that the order passed by the Court of Session reveals that the applicant was seen in the CCTV footages at the scene of occurrence, when the theft was allegedly committed. Therefore, the custodial interrogation of the applicant is warranted.

6. The theft had allegedly occurred in between 6th May, 2022 to 13th May, 2022. Entire stolen property seems to have been recovered. In this backdrop and the punishment which the offences entail, at this length of time, the custodial interrogation of the applicant does not seem warranted. I am, therefore, inclined to exercise the discretion in favour of the applicant.

7. In the event of arrest in C.R. No. 513 of 2022 registered with Waliv police station, the applicant be released on bail on furnishing a P.R. bond in the sum of Rs.30,000/- with one or two sureties in the like amount.

8. The applicant shall cooperate with the investigation and attend Waliv police station, on 12th and 13th December, 2023 in between 10 am to 1 pm and, thereafter, as and when directed.

9. The applicant shall not tamper with the prosecution evidence

and give threat or inducement to first informant, any of the prosecution witnesses or any person acquainted with the facts of the case.

10. The applicant shall regularly attend the proceedings before the jurisdictional Court.

11. It is clarified that these prima facie observations are confined to determine entitlement to pre-arrest bail only.

Application disposed.

(N. J. JAMADAR, J.)