

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

ANTICIPATORY BAIL APPLICATION NO. 3588 OF 2022

Fatima Yusuf Khan

.... Applicant

v/s.

The State of Maharashtra

.... Respondent

Mr. Akash Vijay for the Applicant.

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

CORAM: SMT. ANUJA PRABHUDESSAI, J.

DATED : 06th MARCH, 2023.

P. C. :-

1. This is an Application under section 438 of Cr.PC. filed by the aforesaid Applicant for pre-arrest bail in C.R.No.497/2022 registered with V.P. Road Police Station, Mumbai for offences punishable under sections 170, 420, 452 r/w. 34 of the Indian Penal Code.

2. The aforesaid crime was registered pursuant to the FIR lodged by Mrs. Prerna Leo Bareto. The FIR reveals that on 17/10/2022, the First Informant had received a phone call from one Reshma, who was known to her since last 10 years stating that she would send her sister i.e., the Applicant herein to her as she was in need of job. Accordingly on 17/10/2022, at 08:30 a.m., the Applicant came to her house along with her friend. She claims that the person who had accompanied the Applicant left at about 09:30 a.m. At about 05:00 p.m., the first

informant phoned Bharatbhai, a jeweler and requested him to come to her house along with some gold ornaments. She claims that at about 06:00 p.m., someone knocked the house. The Applicant opened the door, at which time, two ladies and one man about 35 years of age, who posed to be police officers, entered the house and took search of the house. While the said unknown persons were searching the house, the jeweler – Bharatbhai also came to her house. She claims that another person also entered the house alleging that he too was a police officer. They took away cash of Rs.4,00,000/- from Bharatbhai and Rs.2,50,000/- as well as gold ornaments of 30 gms from the house of the Complainant. She claims that she told the Applicant to leave the house and at about 07:30 p.m., while she was going to the police station, she saw the friend of the Applicant walking along with the same ladies who had entered the house and posed as police officers. Based on these allegations, the aforestated crime came to be registered.

3. The FIR prima facie reveals that the Applicant was in need of a job and in this regard, the sister of the Applicant had sent her to the first informant. The only prima facie material as against the Applicant is that an amount of Rs.40,000/- has been recovered from her on 29/12/2022 after she had reported to the Investigating officer for

interrogation. Prima facie, there is no material on record to indicate that the money recovered from the Applicant relates to the incident in question.

4. Learned APP claims that the Complainant had seen the friend of the Applicant with the other two ladies at about 07:30 p.m. while she was going to the police station. It is stated that the said person who had accompanied the Applicant, has been arrested and arrayed as an accused no.2. It is pertinent to note that the person who had accompanied the Applicant and who had allegedly committed the crime, were not known to the Complainant. Till date, the Investigating Agency had not conducted Identification Parade and consequently failed to establish identity of the person who had accompanied the Applicant as well as the identity of the two ladies with whom he was seen walking. Having gone through the records, the involvement of the Applicant is not prima facie made out.

5. Learned APP also opposes the Application on the ground that the Applicant has not complied with one of the conditions of the interim bail which required her to handover passport to the Investigating Agency. Learned counsel for the Applicant states that the passport is misplaced and if traced, the Applicant will hand over the same to the

Investigating Officer or will lodge a report to the police within a period of two weeks. Statement is accepted.

6. Having gone through the material on record, prima facie, no case is made out as against the Applicant to justify custodial interrogation. Under the circumstances, the Application is allowed on the following terms and conditions :-

(a) In the event of arrest of the Applicant in C.R.No.497/2022 registered with V.P. Road 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 hand over the passport to the concerned Investigating Officer within a period of two weeks from the date of this order ;

(d) 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;

(e) 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.

(f) It is made clear that in the event the Applicant does not comply with the conditions of the bail order, the bail order shall stand revoked without further reference to this Court.

7. The Application stands disposed of.

**PREETI
H JAYANI**

(SMT. ANUJA PRABHUDESSAI, J.)

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