

Sayali Upasani

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

ANTICIPATORY BAIL APPLICATION NO. 3393 OF 2023

Rupesh Suresh Koli	...Applicant
Versus	
The State of Maharashtra	...Respondent

Mr. Aniket Nikam i/b Amit Icham, for Applicant.

Mr. S. H. Yadav, APP for State.

Mr. S. V. Pawar, API, CBD Police Station, Present.

CORAM:- N. J. JAMADAR, J.

DATED:- 5th DECEMBER, 2023

P.C.:-

1) Heard the learned counsel for the applicant and the learned APP for the State.

2) This is an application for pre-arrest bail in connection with C.R. No. 214 of 2023, registered with CBD Belapur Police Station, for the offences punishable under Sections 326, 504 and 506 read with Section 34 of Indian Penal Code, 1860 ("the Penal Code"). Subsequently, an offence punishable under

Section 394 of the Penal Code has been added and Section 326 has been deleted.

3) The first informant had lodged a report with the allegations that co-accused Kundan Mhatre and his two unknown associates had accosted him. He was assaulted by Kundan by means of belt. Two associates of the co-accused – Kundan had also assaulted him by means of fist and kick blows. In a supplementary statement recorded on 2nd November, 2023, the first informant alleged that while he was being assaulted one of the persons had snatched two gold chains.

4) The learned Additional Sessions Judge declined to exercise the discretion as the applicant was named as the person, who had robbed the first informant. The fact that the applicant is a police personnel was also arrayed against the applicant.

5) Evidently, there is a delay in reporting the alleged robbery. The applicant was not named in the FIR. Interestingly, though the first informant claimed that the person, who had snatched away the gold chains had been identified as Rupesh Koli by his friend Bhushan Tandel, yet in the statement of Bhushan which was recorded on the very day, the applicant was not identified as the person who had snatched away the gold chains. Initially,

the allegations were primarily against Kundan, who has been granted pre-arrest bail.

6) Since the applicant is stated to be a police personnel, possibility of fleeing away from justice seems to be remote.

7) In the aforesaid view of the matter, I am persuaded to exercise the discretion in favour of the applicant.

8) Hence, the following order:-

ORDER

I) In the event of arrest of the applicant in connection with C.R. No. 214 of 2023, registered with CBD Belapur Police Station, for the offences punishable under Sections 394, 504 and 506 read with Section 34 of Indian Penal Code, 1860, the applicant be released on bail on executing a PR Bond in the sum of Rs.30,000/- with one or two sureties in the like amount.

II) The applicant shall co-operate with the investigation and attend CBD Belapur on 12th and 13th December, 2023 in between 10.00 am to 1.00 pm and, thereafter, as and when directed by the Investigating Officer.

III) The applicant shall not tamper with the prosecution evidence and/or give threat or inducement to the first informant or any of the persons acquainted with the facts of the case.

IV) It is clarified that these *prima facie* observations are confined to determine the entitlement to pre-arrest bail only.

V) The application stands disposed.

[N. J. JAMADAR, J.]