IN THE HIGH COURT OF JUDICATURE OF BOMBAY
BENCH AT AURANGABAD

953 ANTICIPATORY BAIL APPLICATION NO. 1102 OF 2024

Meer Aslam Ali Hashmi Meer Faiz Ali Hashmi ....Applicant

VERSUS

The State of Maharashtra & another .....Respondents

.....
Mr. S. S. Gangakhedkar, Advocate for Applicant.
Mrs. D. S. Jape, APP for the State.

CORAM : R. M. JOSHI, J.
DATE : 3rd OCTOBER, 2024.

PER COURT :

1. Applicant apprehends arrest in connection with Crime No. 0246/2024 registered with Basmat City Police Station, Dist. Hingoli, for the offence punishable under Sections 406, 420 read with Section 34 of Indian Penal Code.

2. First informant Abdul Ahad Abdul Samad Shaikh reported to the police that he went to purchase gold for marriage of his sister. Accordingly, through his acquaintance, he went to Ganraj Jewellers on 01.04.2024. He purchased 25 Tolas gold for Rs. 17,45,000/-. Thereafter, further gold was purchased from Devpriya Jewellers, Basmat. It is further stated that his friend Shaikh Khalil

Shaikh Mehboob also showed his inclination to purchase gold and accordingly, total gold worth Rs. 24,90,000/- was purchased on the said day. There is allegation that when they purchased said gold and came back home, one Sangita introduced him with Syed Anwar Syed Khaisar and Ishrat Begum Syed Anwar. It was told to the informant that they are also interested in purchasing gold. It was further stated that the said gold was taken to Zilla Parishad ground at about 7.30 pm. When they went there, Syed. Anwar and his wife Ishrat Begum gave the said gold to two persons who were sitting in the car. Said persons took away said gold. Offence came to be registered on the basis of these allegations.

3. Learned counsel for Applicant submits that the alleged incident has occurred on 01.04.2024 and the First Information Report is lodged after about a month. It is his submission that on 04.04.2024, complaint was made to the police. However, it was stated therein that the gold was taken from the house of the informant and not from Zilla Parishad ground. This, according to him, is serious discrepancy in the case of prosecution. It is his further submission that allegations in the First Information Report indicate that the gold was purchased by paying cash however, later

on GST reciepts are sought to be produced which also create doubt to the genuineness of the allegations. Finally, it is contended that since there was dispute between the Applicant and the informant and as the Applicant was insisting for repayment of money from the transaction between them, he is being falsely implicated.

4. Learned APP opposed the Application by relying upon the evidence collected during the course if investigation. She has drawn attention of the Court to the statement of the jewellers confirming sale of 50 Tolas gold on 01.04.2024. It is her submission that nothing is pointed out by the Applicant to show reason for which he has been falsely implicated in this crime.

5. Perusal of the First Information Report indicates that the informant has tried to recover said gold. He was assured by the co-accused for bringing the gold back. In considered view of this Court, this is sufficient explanation for the alleged delay in lodging of the First Information Report. If it is the case of the Applicant that owing to the transaction between him and the informant and as informant insisted for repayment of money, he is falsely implicated, there has to

be some evidence to prove so. Applicant was unable to show any material in this regard in order to accept the said contention.

6. As against this, prima facie there is evidence on record to indicate that gold was purchased by the informant and the same was taken away on 01.04.2024 by Applicant and co-accused. The mistake committed by the informant in lodging belated complaint is not so serious that the contention of the informant needs to be discarded at this stage. The gold has not been recovered till date and hence custodial interrogation of person who has alleged to have taken gold with him is absolutely necessary. In absence of there being any motive for the informant to falsely implicate the Applicant in this crime and considering the nature of offence wherein the issue of recovery of gold worth Rs. 34,90,000/- is involved, it is not a fit case for grant of anticipatory bail.

7. In the result, Application stands rejected.

(R. M. JOSHI)
Judge

dyb