

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

ANTICIPATORY BAIL APPLICATION NO. 1888 OF 2024

Rani Shivbabu Gupta	...	Applicant
Versus		
The State of Maharashtra	...	Respondent

Mr. Tejas Hilage (through V.C.) for the Applicant.
Ms. Rutuja A. Ambekar, APP for Respondent-State.

CORAM: MANISH PITALE, J.
DATE : 16th JULY 2024

P.C. :

. Heard learned counsel for the applicant and learned APP for respondent-State.

2. The applicant is apprehending arrest in connection with FIR No. 0231 of 2024 dated 17th May 2024 registered at Ichalkaranji Police Station, Kolhapur, for the offences under Sections 408, 409, 420, 465, 467, 468 and 471 of the Indian Penal Code, 1860 (IPC).

3. The applicant is one of the three named accused persons in the present FIR. The informant is an official of a bank and the allegation is that the co-accused person i.e. the husband of the applicant along with the applicant took huge amount of loan from the bank in lieu of depositing gold ornaments. It is the case of the informant that when the time came to repay the loan and it appeared that there would be default, the accused persons requested the bank to dispose of the deposited gold and to utilize

the proceeds for repayment of the loan and also to deposit the balance amount in their account. When the bank officials took steps to dispose of the gold, it was found that the same was fake and that the bank had been cheated. Apart from the husband of the applicant, the third named co-accused person is a valuer of the bank, who had certified the gold to be genuine when it was deposited by the applicant's husband for taking loan from the bank.

4. The learned counsel for the applicant submits that even according to the statement, leading to registration of the FIR, the role of the applicant is mentioned against the date 12th April 2023. In the earlier part of the statement, when loan amounts were disbursed, the role is entirely ascribed to the husband of the applicant. On this basis, it is submitted that the applicant had merely accompanied her husband on one occasion, when such loan was taken in lieu of depositing gold ornaments.

5. It is submitted that the husband of the applicant i.e. the co-accused person has been granted regular bail by the Sessions Court and even those persons, who were arraigned as accused subsequently, from whom the gold ornaments had been purchased, were also granted regular bail, while the bail application of the valuer i.e. the accused No.3 rejected by the concerned Court.

6. It is further brought to the notice of this Court that the husband of the applicant had issued a notice on 15th March 2024

i.e. before registration of the FIR and approached the Police raising a grievance against the bank and its official, on the basis that while genuine gold ornaments were deposited with the bank at the time of obtaining loan, subsequently, the same were replaced by fake gold ornaments. On this basis, it is submitted that this Court may favourably consider the present application.

7. On the other hand, the learned APP has vehemently opposed the prayer made in the present application. Attention of this court is invited to the contents of the statement, leading to registration of the FIR, wherein the role of the applicant is also stated in detail. It is submitted that the application dated 15th March 2023 submitted by the husband of the applicant is obviously an afterthought, when the misdeeds of the applicant and her husband were caught by the bank. It is submitted that gold jewellery belonged to the applicant and therefore, she is equally involved with her husband in the present case. Regular bail being granted to her husband cannot be a ground to allow the present application.

8. This Court has considered the material on record. A perusal of the statement of the informant undoubtedly shows that the applicant has been indeed named in the aforesaid statement. Her name features against the date 12th April 2023, when she is said to have accompanied her husband while obtaining loan in lieu of depositing gold ornaments. Prior to the said date, all the allegations appear to have been levelled against the husband, although towards the end of the statement, a general reference is

made to the dates when loan amounts were taken by depositing gold ornaments.

9. This Court is inclined to accept the statement made on behalf of the applicant that *prima facie* the overt acts are all attributed to the husband of the applicant. The allegation of submitting the complaint as a matter of afterthought is also relatable to the husband of the applicant. At worst, it can be alleged that the applicant accompanied her husband on 12th April 2023, when loan amount was applied for in lieu of depositing gold ornaments.

10. As on today, the husband of the applicant has been granted regular bail after having been arrested. The value i.e. accused No.3 is still behind bars, as his regular bail application is also rejected. The applicant is a woman and the provisions of law indicate different consideration to be given to woman, who applies for bail in such circumstances. This Court is unable to agree with the learned APP that in the facts and circumstances of the present case, the custody of the present applicant is required, even though she is ready to cooperate with the investigation.

11. In view of the above, the application is allowed in the following terms :

- (a) In the event the applicant is arrested in connection with FIR No. 0231 of 2024 dated 17th May 2024

registered at Ichalkaranji Police Station, Kolhapur, she shall be released on bail on furnishing PR Bond of Rs.50,000/- and one or two sureties in the like amount to the satisfaction of the trial Court.

(b) The applicant shall remain present before the Investigating Officer on 19th July 2024 and thereafter, as and when required by the Investigating Officer. The applicant shall cooperate with the investigation.

(c) The applicant shall not tamper with the evidence of the prosecution in any manner. She shall not influence the informant, witnesses or any other person concerned with the case.

12. Needless to say, violation of any of the aforesaid conditions would make the applicant liable to face proceedings for cancellation of anticipatory bail. It is also clarified that the observations made in this order are limited to the question of grant of anticipatory bail to the applicant in the present application.

13. The application is disposed of.

MANISH PITALE, J.